

STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

EMPLOYEE MISCLASSIFICATION ADVISORY
TASK FORCE MEETING

September 27, 2012

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Mike Shinnick, Co-Chair Designee

Carolyn Lazenby

Ex Officio Members:

Dan Bailey

Nathan Burton

Martha Campbell

Jason Locke

Abbie Hudgens

Lynn Ivanick, Parliamentarian

James Milam

Randy Thomas

1 CHAIRPERSON JEFFERSON: The 13:08
2 meeting will please come to order. Good afternoon
3 and welcome to the September 27, 2012 Employee
4 Misclassification Advisory Task Force meeting.
5 First we'll have the roll call by 13:08
6 Ms. Lynn Ivanick.
7 Ms. Ivanick?
8 MS. IVANICK: Chairperson
9 Jefferson?
10 CHAIRPERSON JEFFERSON: Here. 13:09
11 MS. IVANICK: Carolyn Lazenby?
12 MS. LAZENBY: Here.
13 MS. IVANICK: Mike Shinnick?
14 (No response.)
15 MS. IVANICK: Dan Bailey? 13:09
16 MR. BAILEY: Here.
17 MS. IVANICK: Nathan Burton?
18 (No response.)
19 MS. IVANICK: Martha Campbell?
20 MS. CAMPBELL: Here. 13:09
21 MS. IVANICK: Jason Locke?
22 (No response.)
23 MS. IVANICK: Abbie Hudgens?
24 MS. HUDGENS: Here.
25 MS. IVANICK: Myself. 13:09

1 James Milam? 13:09

2 (No response.)

3 MS. IVANICK: Randy Thomas?

4 MR. THOMAS: Here.

5 MS. IVANICK: You have 2 of 3 13:09

6 voting members, Madam Chairman, and 5 of 8

7 nonvoting, for 7 of 11.

8 CHAIRPERSON JEFFERSON: Thank

9 you. And we have a quorum?

10 MS. IVANICK: We do. 13:09

11 CHAIRPERSON JEFFERSON: Thank

12 you. Ms. Ivanick, we'll recognize additional

13 members as they come in.

14 MS. IVANICK: Yes.

15 CHAIRPERSON JEFFERSON: The 13:09

16 next item on the agenda is the July 26, 2012

17 meeting minutes. The meeting minutes can be found

18 on the Employee Misclassification Task Force

19 website. In the event that you did not have an

20 opportunity to review, we placed a copy on the 13:09

21 table next to the door.

22 Is there a motion to adopt the

23 July 26, 2012 meeting minutes?

24 MS. LAZENBY: I make that

25 motion. 13:10

1 CHAIRPERSON JEFFERSON: I 13:10
2 second.

3 MS. IVANICK: Any discussion?
4 (No verbal response.)

5 MS. IVANICK: All those in 13:10
6 favor?

7 (Affirmative response.)

8 MS. IVANICK: All opposed?
9 (No verbal response.)

10 MS. IVANICK: The motion 13:10
11 passes to approve the minutes of the July 26, 2012
12 meeting.

13 CHAIRPERSON JEFFERSON: Next
14 on the agenda is the September 27, 2012 agenda.
15 Please refer to today's agenda. Is there a motion 13:10
16 to adopt the September 27, 2012 agenda?

17 MS. LAZENBY: I make that
18 motion.

19 CHAIRPERSON JEFFERSON: Okay.
20 And I second. 13:10

21 MS. IVANICK: Any discussion?
22 (No verbal response.)

23 MS. LAZENBY: All those in
24 favor?

25 (Affirmative response.) 13:10

1 MS. LAZENBY: All opposed? 13:10

2 (No verbal response.)

3 MS. LAZENBY: The motion to

4 adopt the agenda for the 9/27/12 meeting is

5 approved. 13:10

6 CHAIRPERSON JEFFERSON: Thank

7 you. The next item on the agenda is the feedback

8 from the legislative committee chairs. And before

9 we can provide information about the feedback, I

10 would just like to do a brief overview of the 13:11

11 legislative history. And I'm going to actually

12 take the podium to do this.

13 MS. IVANICK: And just for the

14 record, James Milam has entered the room, one of

15 the members. 13:11

16 CHAIRPERSON JEFFERSON: I just

17 thought it would be a good idea to talk about the

18 legislative history. Before we can really

19 understand the feedback that the legislative

20 committees provided, we do need to take a look 13:11

21 back at how we got here. And that's important

22 because we really can't understand where we need

23 to go unless we understand the history.

24 So in providing the legislative

25 history, I did some research and I talked with a 13:12

1 number of people, and employee groups and business 13:12
2 leaders from the community were concerned about
3 noncompliant employers because they were
4 underbidding on construction projects.

5 Dishonest employers were not 13:12
6 including the things that you should include like
7 workers' compensation coverage. They were not
8 including the federal payroll taxes, state payroll
9 taxes and other items that they should in their
10 bids. Dishonest employers failed to do that; 13:12
11 however, honest employers were doing those things.

12 The fact that dishonest employers
13 were failing to include those things in their bids
14 caused resentment amongst the employers all over
15 the state of Tennessee in the construction 13:12
16 industry. Because truly, this created an unfair
17 advantage, unfair competition among employers.

18 And there was an attempt to level the
19 playing field by implementing Public Chapter 1041,
20 which required everyone engaged in the 13:13
21 construction industry to carry workers'
22 compensation coverage on themselves. Now, due to
23 complaints -- there were all sorts of complaints
24 from all across the state amongst employers
25 because some employers felt that this particular 13:13

1 law would drive their company out of business. 13:13

2 And those concerns were expressed to the

3 legislature.

4 And this public chapter, again,

5 Public Chapter 1041, would require everyone in the 13:13

6 construction industry to carry a workers'

7 compensation policy on themselves. Due to those

8 complaints, Public Chapter 1041 was suspended

9 after only three weeks in operation, and it was

10 replaced with Public Chapter 1149. 13:13

11 Public Chapter 1149 created a

12 compromise between the business leaders, the

13 employees' groups, as well as the employer groups.

14 And Public Chapter 1149 required construction

15 owners to carry workers' compensation coverage on 13:13

16 themselves unless they were listed on the

17 exemption registry or fell under some other

18 exception.

19 Now, the exemption registry is

20 administered by the Secretary of State's office. 13:14

21 And what they do is allow employers, owners of

22 companies, various types -- and when I say that,

23 I'm talking sole proprietors, limited liability

24 members, corporate officers and so forth -- to

25 register. They have to actually apply and 13:14

1 complete an application, pay the proper 13:14
2 application fee.

3 Currently, the application fee is
4 \$100 for the registration, \$100 for the exemption,
5 which means that if you are a licensed contractor, 13:14
6 then you're required to pay \$100, but if you're
7 unlicensed, you're required to pay \$200. However,
8 those fees will be reduced January the 1st, 2013.
9 And they're being reduced -- cut in half. So now
10 the registration fee would be \$50, and \$50 for the 13:14
11 exemption.

12 That's very important because we have
13 to understand that that's going to affect the
14 Fund. This money is being collected for the Fund
15 to do work, enforcement work, investigation work 13:15
16 and so forth. And Public Chapter 1149, in
17 addition to creating the exemption registry, it
18 also created the Employee Misclassification
19 Education and Enforcement Fund. That's the fund
20 that the money goes into. And it also created the 13:15
21 Task Force.

22 And we were created to study issues
23 relative to employee misclassification, and we're
24 required to submit recommendations on behalf of
25 our study at the end of the year. The report is 13:15

1 due on or before February 1st of a year. And last
2 year, we submitted our first report. It was
3 submitted on January the 30th, and it included
4 three recommendations.

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5 The first recommendation was for
6 increased personnel, because we realized that if
7 we want to do a really good job, if we want to
8 investigate, if we want to enhance our
9 enforcement, we have to have additional personnel.

13:15

10 And because of the large non-English-speaking
11 community, we need to take that into consideration
12 and we need to maybe hire some translators and
13 interpreters, get those people on board as well.

13:16

14 Number two, we have to have
15 administrative penalties. Currently, we do not
16 have any administrative penalties for the program
17 as it relates to employee misclassification, which
18 is very important. And we also need to have
19 stop-work orders. And we're actually focusing on
20 stop-work orders to be used against the offending
21 employers only. We're only trying to use those
22 against the offending employers.

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13:16

23 Now, the Employee Misclassification
24 Fund was created to investigate employers who may
25 be misclassifying their workers as independent

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1 contractors instead of employees, who may be
2 underreporting the number of employees,
3 understating the amount of payroll,
4 misrepresenting the type of work that's being
5 performed.

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6 We're also looking to see if
7 employers are paying their workers in cash, or
8 under the table, which is very important. And
9 we're investigating cases and referring cases of
10 employee misclassification to other divisions
11 within our department. For example, we are
12 referring those cases to Unemployment Insurance
13 Tax Division, Labor Standards. We're also
14 referring those cases to other departments like
15 Commerce and Insurance, their fraud unit, as well
16 as the Board of License and Contractors.

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17 We also actually work a great deal
18 with the Secretary of State's office, because,
19 remember, they are the ones that administer the
20 exemption registry. They refer cases to us on a
21 regular basis. And in addition to doing that, we
22 placed the insurance carriers on notice of
23 everything that we're doing in the event that
24 they're able to pursue these employers, because
25 they have units within their -- they have -- most

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13:17

1 of the time, they have in-house counsel. And they
2 can have their in-house counsel take a look at
3 these cases because we don't have teeth at this
4 particular time to pursue.

13:17

5 And in addition to employee
6 misclassification, our compliance program also
7 investigates employers to determine if they have a
8 valid workers' compensation policy. We also look
9 at whether injured employees are timely receiving
10 their benefits.

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13:18

11 So we have quite a bit to do. And as
12 I mentioned before, we have limited personnel, we
13 don't have administrative penalty, and we don't
14 have stop-work orders.

15 Now, the Task Force and Employee
16 Misclassification Education and Enforcement Fund
17 hopes to do all of the following. But we have to
18 do everything in increments. We understand that
19 we can't do it all up front. We have to take our
20 time and do these things.

13:18

13:18

21 What we want to do is work towards
22 leveling the playing field. We want to have
23 everyone to compete fairly. We want to
24 participate in fraud crackdown, eliminate the
25 underground construction economy, prevent money

13:19

1 laundering and racketeering. We want to stand for
2 law-abiding citizens, prevent worker exploitation,
3 encourage fair competition, and we want to shift
4 the liability to the responsible parties, most
5 importantly.

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13:19

6 And again, those three
7 recommendations -- I keep talking about those
8 three recommendations because that's important for
9 us to understand the feedback that we received --
10 increased personnel, administrative penalties, and
11 stop-work orders.

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12 On August the 27th and September the
13 13th, the voting members of the Task Force, Mike
14 Shinnick, Carolyn Lazenby, and myself, along with
15 representatives from the Tennessee Department of
16 Labor, met with Chairman Eldridge, who's the
17 chairman of the Consumer and Employee Affairs
18 Committee of the House of Representatives. And on
19 September the 13th, we met with Chairman Johnson,
20 who's the senator of the Commerce, Labor and
21 Agriculture Committee of the Senate.

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22 Based on our meeting with Chairmans
23 Eldridge and Johnson, we seem to be on the right
24 track and moving in the right direction. Chairman
25 Eldridge agreed that we do need strong penalties

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1 to combat this problem. He recognizes that. And
2 in addition, he said that our recommendations are
3 good for the employers, the employees, and the
4 entire state of Tennessee. So we're really
5 excited about his feedback.

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6 Now, Chairman Eldridge also expressed
7 concerns. And I want to make sure that I relay
8 those concerns to you. He was concerned about
9 whether all the stakeholders are on board with our
10 2012 recommendations. That's a very big concern
11 of his. And we have talked with each stakeholder
12 individually to make sure everybody is on board.

13:20

13 Number two, he wanted to know whether
14 or not certificates of insurance should have
15 additional information on them, are we including
16 everything.

13:21

17 Number three, whether construction
18 service providers should carry some type of
19 identification card on them when we're at the
20 site, whether there should be something in lieu of
21 a certificate of insurance or whether or not it
22 should be in addition to.

13:21

23 And finally, he wanted us to take a
24 look at what we're doing to decide whether or not
25 we should focus on non-construction cases, whether

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1 we should continue to focus on construction cases
2 or look at non-construction cases in the future.
3 So those are four concerns that Chairman Eldridge
4 had.

13:21

5 When we talked with Chairman Johnson,
6 he also wanted to know whether or not stakeholders
7 were on board with the 2012 recommendation. He
8 expressed concerns about the administration of the
9 stop-work orders. He wanted to know whether or
10 not there was a potential to abuse stop-work
11 orders. He also wanted to know whether or not the
12 persons issuing stop-work orders would have
13 unlimited discretion. That's very important to
14 him. So those are things that we have to take a
15 look at as a group.

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13:22

16 Now, in order to address those
17 concerns, we've offered to host a joint meeting
18 with the entire Task Force, all of the
19 stakeholders, both the legislative chairs, their
20 staff, and their committees. The legislative
21 liaisons for the Tennessee Department of Labor
22 will speak with Representative Eldridge and
23 Senator Johnson's office to make arrangements for
24 our meeting. And from what I understand, the
25 meeting will be held in November or December, but

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13:22

1 it will be after the elections. And at that

13:22

2 meeting -- and after that meeting, it was

3 suggested that we prepare a PowerPoint

4 presentation at that time and prepare materials

5 for the participants and confirm that stakeholders

13:23

6 are on board with the 2012 recommendations.

7 All of that is important because

8 we're moving into 2013, and we're getting ready to

9 prepare another report. So we want to make sure

10 that we have full support on the 2012 annual

13:23

11 report before we start working on the next report.

12 It just makes sense for us to do that.

13 Now, the next item on the agenda is the

14 stop-work orders. Because we're talking a lot

15 about stop-work orders, I thought I would reach

13:23

16 out -- actually, Matt Capece put me in touch with

17 Resa Spaziani. She's from Connecticut, and she

18 supervises the employee misclassification program

19 in Connecticut. She visited Nashville last week

20 and I had the opportunity of meeting her. So we

13:23

21 actually had a conversation about employee

22 misclassification, administrative penalties,

23 stop-work orders, and Connecticut's policies and

24 procedures for handling employee

25 misclassification.

13:24

1 And Ms. Spaziani was very knowledgeable 13:24
2 about this issue. They've been working on this
3 issue five to seven years, I believe, in
4 Connecticut. So she was able to provide a lot of
5 really good input and insight and help us to kind 13:24
6 of understand where we need to go.

7 And she provided copies -- if you don't
8 have copies of these documents now, check your
9 packages. If you don't have copies, we'll make
10 sure we get you a copy. She provided 13:24
11 Connecticut's initial letter informing employers
12 of noncompliance and what needs to be done in
13 order for them to become compliant. She provided
14 a copy of the stop-work order. She provided a
15 copy of the release of the stop-work order, the 13:24
16 Notice and Show Cause Order, and the appeals
17 procedure.

18 Although Connecticut may not be
19 comparable to Tennessee in size, they still have a
20 lot of really good information to share and we can 13:25
21 really take advantage by talking with her and
22 other people who are already working toward the
23 goals that we're trying to move toward. So I
24 think that she'll be a really good resource for
25 us. 13:25

1 And, in Connecticut, she mentioned that 13:25
2 the administrative penalty is \$300 per
3 misclassified worker, per incident. So that's how
4 they handle theirs. And she actually provided a
5 copy of the stop-work order that they post when 13:25
6 the investigators go out and investigate. And it
7 basically looks like this. I wanted to bring this
8 for everyone to see (indicating). This is what it
9 looks like.

10 So after their investigators talk with 13:25
11 the director, their commissioner, and all the
12 other officials -- because they don't have
13 unlimited discretion -- after they talk with the
14 administrator and the commissioner and so forth,
15 they decide whether or not they're going to issue 13:26
16 a stop-work order. Discretion is not given to the
17 investigators. And based on what I understand,
18 our investigators wouldn't even want that type of
19 responsibility. No one wants that type of
20 responsibility. They want to be able to call the 13:26
21 office and to know that they have permission to
22 issue the stop-work orders. And that's what we're
23 moving towards.

24 And so if you don't have those
25 documents, please obtain those documents. Sue 13:26

1 will assist. This is Sue Gordon and she'll assist
2 you in obtaining those documents.

13:26

3 And the final item that I wanted to talk
4 about are statistics of what we've done because I
5 know there have been a lot of questions. And
6 sometimes you can't really see what's being done
7 within the programs, but we've actually been
8 working really, really hard, and we wanted to
9 demonstrate that with our numbers.

13:26

10 Now, pursuant to Public Chapter 1149 --
11 it's in Tennessee Code Annotated -- actually, the
12 section I'm referring to is Tennessee Code
13 Annotated 50-6-412(g). This section requires the
14 commissioner to notify the Secretary of State when
15 any employer is engaged in the construction
16 industry, if that employer fails to secure payment
17 of workers' compensation coverage, as required by
18 the chapter, and when an employer who has failed
19 to secure payment of compensation as required by
20 the chapter has obtained payment of compensation.

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13:27

13:27

21 What that means is that if an employer
22 does not have workers' compensation coverage and
23 does not meet the requirements of the statute in
24 general, we're required to notify the Secretary of
25 State. We're also required to notify the

13:27

1 Secretary of State when the employer becomes 13:27
2 compliant. So for two reasons.

3 And we've kept track of the quarterly
4 reports that we've submitted to the Secretary of
5 State's office. We submitted a quarterly report 13:28
6 for the period December 16th, 2011, through March
7 the 15th 2012; March the 16th, 2012, through June
8 the 15th, 2012; and June the 16th, 2012, through
9 September the 15th, 2012.

10 Now, based on our numbers, the total 13:28
11 number of employers who are now on the exemption
12 registry are 20 as a result of the compliance
13 program. Now, the total number who were
14 compliant -- they either got a policy or became
15 listed on the registry -- the total number was 85. 13:28
16 So it's much higher. But of that 85, 20 are
17 listed on the exemption registry as a result of
18 our efforts.

19 Now, we have 13 who are still
20 noncompliant. However, all we can do is assess 13:29
21 monetary penalties. We don't have the authority
22 to stop work at this time, so they're still
23 operating without workers' compensation coverage.
24 Now, we have 10 that are repeat offenders. And
25 that's important because these are people who 13:29

1 intentionally do what they do. They know the law
2 but they intentionally disobey the law.

13:29

3 In regard to employee misclassification
4 statistics, we're showing that the program
5 investigated approximately 1,292 cases from
6 July 1st, 2011, to August the 31st, 2012.

13:29

7 Investigation reports have been submitted for most
8 of those cases -- some of those cases, I'll say.

9 However, we're limited with what we can do. All

10 we can do at this point is gather the information,

13:29

11 refer the same issues to other departments and

12 divisions within our department, and we can

13 contact the insurance company, putting them on

14 notice that this type of conduct is happening.

15 Of 1,292 cases, there are 864

13:30

16 construction cases that we investigated, 428

17 nonconstruction cases that we investigated. Now,

18 these investigations have been in the form of

19 complaints from our tip line; RFIs, which are

20 requests for investigation when people call and

13:30

21 complain -- sometimes we get complaints from other

22 employers, sometimes from employees, sometimes

23 people who are injured call us and put us on

24 notice -- and just from a variety of different

25 ways and different means of obtaining that

13:30

1 information. 13:30

2 But I wanted you to know that we're

3 investigating all of these cases, construction and

4 non-construction cases, because the Task Force may

5 decide at some point to investigate 13:30

6 non-construction cases. As far as pursuing them

7 with the funds available, we understand that we

8 won't be pursuing those. We can only pursue the

9 construction cases at this time where we have

10 teeth. And right now we don't have teeth to 13:31

11 pursue. But we are collecting the information so

12 whenever we are authorized to proceed, we'll be

13 ready. Because right now, we have all the

14 information we need to proceed. But we just need

15 legislative authority for us to be able to move 13:31

16 forward on that.

17 And just to give you an example of some

18 of the non-construction businesses that we've

19 investigated, we've investigated towing and

20 automotive businesses; security businesses; 13:31

21 trucking; home healthcare, which is a really big

22 one; trucking operations; damage restorations;

23 restaurant; group housing; dentist offices; moving

24 companies; tattoo studios; and day spas, just to

25 give you an example of some of the other types of 13:31

1 cases that involve employee misclassification.

13:31

2 And as I indicated earlier, we refer
3 cases to the insurance division of the Department
4 of Commerce and Insurance; employment security
5 division of the Tennessee Department of Labor and
6 Workforce Development; and insurance companies.

13:32

7 And we also received referrals from those same
8 agencies including the Tennessee Secretary of
9 State's office.

10 And finally, our program, with the help
11 of John Basford and Norm Auffhammer, created a
12 round table. And I've talked about this round
13 table on various occasions. And we felt that
14 there was a need to create the round table that
15 involves investigators from our department. And
16 what they do is collaborate with other
17 investigators within our department to develop
18 ways, strategies, means to pursue these types of
19 cases.

13:32

13:32

20 What it was supposed to do -- having
21 this round table is supposed to open up the lines
22 of communication, allowing investigators within
23 the Department to exchange information, exchange
24 ideas and just share. And what this has done is
25 allowed the Unemployment Insurance Tax Division to

13:32

13:33

1 become a part of what we're doing.

13:33

2 If you didn't receive a copy of their
3 diagram, it looks like this (indicating), and it
4 has the shared investigations on it. And it gives
5 you a breakdown. It's a piechart and it gives you
6 a breakdown of what the Unemployment Insurance Tax
7 Division has done thus far.

13:33

8 And this is the type of information that
9 we want to use in our 2013 annual report. And we
10 also will provide information, similar
11 information, on behalf of Workers' Compensation
12 Employee Misclassification Education and
13 Enforcement Fund. We'll have this same
14 information. Hopefully we'll have something
15 prepared for you at the next Task Force meeting.

13:33

13:33

16 So if you don't have any questions, I'm
17 going to move on because I know that we have a
18 presentation by SAS Institute.

19 MS. IVANICK: Just for the
20 record, I wanted to note that voting member Mike
21 Shinnick entered the room.

13:33

22 CHAIRPERSON JEFFERSON: Thank
23 you. Do you-all have any questions?

24 (No verbal response.)

25 CHAIRPERSON JEFFERSON: Great.

13:34

1 Thank you. 13:34

2 MR. HAMMERSBURG: Good

3 afternoon, everyone, to the Chair and to the Task

4 Force. Thank you very much for the invitation to

5 come speak with you today. For the record, my 13:34

6 name is Carl Hammersburg, and I'm with SAS

7 Institute.

8 I'm here to follow up on one of the

9 other things that had been in your report from the

10 current year, which is really saying that a focus 13:34

11 area to be able to be successful around employee

12 misclassification starts with detection. You

13 know, if you're spending all of your time trying

14 to just hit job sites, do that sort of random

15 inspection to be able to find out who's going and 13:34

16 who's out there and laws that they may be

17 breaking. That isn't effective enough. You

18 really need some better opportunities around

19 targeting. SAS Institute is an area that has

20 worked with that. 13:35

21 I joined them at the beginning of

22 this year. Prior to that I spent 21 years in

23 state government in Washington State. I oversaw

24 all fraud and compliance efforts for the workers'

25 compensation program over the last eight years, 13:35

1 after spending 19 years coming up through the
2 employer side of that. So I very well understand
3 the issues you're dealing with, the things you're
4 wrestling with. And the partnerships between
5 multiple agencies because when there's
6 misclassification and when there's an underground
7 economy, there's a lot of laws they're violating.
8 There's a lot of taxes that aren't being paid.
9 And the issue is really shared. It doesn't just
10 sit in one agency.

13:35

13:35

13:35

11 We also had an opportunity to have a
12 legislative task force for three years that was
13 focused on the underground economy. For two years
14 it was exclusively on construction and the third
15 year they opened up to other industries. So I
16 really understand that same process you're going
17 through of saying, you know, construction may be
18 some of the worst of the worst around this, but
19 there's plenty of other places where there's
20 things going on. Let's look at it more
21 collectively.

13:35

13:36

22 So what I wanted to do today was give
23 you a little bit of an overview of the way that
24 SAS approaches this; the general framework
25 approach on analytics and the hybrid detection

13:36

1 approach that's used within the SAS fraud 13:36
2 framework, which hopefully will mean a whole lot
3 more in a few minutes; give you some customer case
4 examples; and talk a little bit about specifically
5 what we did in Washington State, where we went 13:36
6 from a number of sort of home-grown,
7 within-the-agency-type solutions, using data
8 mining cross-matches with other agencies, to then
9 implementing a sophisticated and comprehensive
10 solution around this, and really what it gained 13:36
11 for us on workers' comp but also what it gained
12 for some of the other agencies within that.

13 So let's start with an overview of
14 the fraud framework. A few things that I think
15 that are key to think about this, particularly 13:36
16 when you're looking at data sets that are coming
17 from many different places, is an approach that's
18 agnostic in terms of the data source. By that,
19 I'll give an example from Washington State when we
20 went forward with it. 13:37

21 We had information in many different
22 agencies. It was sitting in Oracle Databases, DV2
23 databases, Excel, flat files, mainframes. It
24 didn't matter where it was and we didn't have to
25 replace any of those systems. That's very 13:37

1 expensive, that's long term, and that's

13:37

2 cumbersome. What we could do was pull from all

3 those areas and integrate the data into a data

4 mart that's just focused on that solution to

5 employee misclassification and the underground

13:37

6 economy.

7 The second piece is really being able

8 to make that timely in terms of decision making.

9 So you can pull in information on the speed in

10 which it changes and the speed in which you need

13:37

11 the information. So if it's data points that may

12 only change once every three months or once a

13 year, fine. We can pull them in when that's

14 appropriate. But if it's things that may be going

15 on today, such as a new safety inspection, an

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16 injury that happened, something else, you can pull

17 that in, you know, overnight. You can pull that

18 in batch realtime to really be able to make sure

19 that you have the most timely information before

20 you take action.

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21 And the idea is, also, a phased

22 approach. In Washington, we actually implemented

23 this in four phases as part of a single project.

24 The goal there was to bring in the most critical

25 data sources first and the ones that played

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1 together a little bit better, start getting the
2 wins, start finding some of the bad guys, the
3 employers that were doing the wrong thing, so we
4 could begin to help the good ones, and they could
5 see success before we even finished, which is
6 really different for me from a lot of my other
7 experience around certain IT projects and those
8 kinds of things.

9 And then when you put something into
10 place, it's not just hard coded. You don't need
11 the IT people to help change anything. Laws
12 change. Those things that you're focused on may
13 change. You may expand in other industries. So
14 you have a quick ability to add or change rules
15 within the underlying framework with sort of a
16 drag-and-drop approach as opposed to something
17 that requires an IT intervention.

18 And for specific programs that
19 already have some of their own solutions in place
20 that are really targeting around fraud issues, if
21 you already have that in some of the agencies,
22 you're able to actually take that information and
23 then ingest it as one more data source, so then
24 they're able to enrich it with the rest of the
25 approaches and then we'll use it more

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1 collectively. So again, it's not trying to
2 replace things that are already working for at
3 least parts of the problem.

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4 And part of what we did as we've
5 pulled everything together -- I'll talk about this
6 a little bit later on, too -- it was so much
7 information that we found out we weren't just
8 handing it to auditors and investigators. We
9 actually started to send all of that rich data
10 from multiple agencies back to other program
11 areas, back into the folks working behind the
12 scenes to really think about things, like, do we
13 just need an educational approach here. What
14 other changes can we make that are lighter touch
15 so it's not just all about penalties, all about,
16 you know, criminal and civil actions, but, also,
17 if someone just got into the business and started
18 having problems immediately, can we course correct
19 with them with a very light touch? It doesn't
20 require a lot of resources, which you're always
21 strapped for, and it can give you a really good
22 return on investment there.

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23 I'm sorry for the folks on this side
24 of the room, because I was just sitting over
25 there. I know the podium does a great job of

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1 blocking parts of this, so I'll try to walk you 13:40
2 through it regardless.

3 Basically, the approach is to start
4 with a core framework. It really begins with that
5 data integration I was talking about from 13:40
6 different programs and data quality, making sure
7 that when you're pulling things together, do they
8 really mean the same thing or not, how do they
9 correlate, if you have mismatches, how do you deal
10 with that, really trying to resolve is this the 13:40
11 same business we're talking about, is this the
12 same construction companies and employer or not.
13 That's a big deal, is trying to make sure that you
14 really have a good identity resolution.

15 An example there was that we pulled 13:40
16 in information from our state, the Department of
17 Revenue. We also pulled in some data from the
18 IRS. We knew that the best way to map through the
19 IRS was through the federal I.D. number. However,
20 our particular agency with workers' comp didn't 13:40
21 always have that. They weren't always correct.
22 Our state revenue department was fantastic at
23 having that number correct, and we had a state
24 identifier that we shared. So we mapped over to
25 Department of Revenue, picked up their federal 13:41

1 I.D. numbers, and used that to map to the IRS. A
2 simple example but just trying to talk about that
3 idea of you have to make sure the information is
4 playing well together.

5 And then this layering on of the
6 analytics is going past just the way we've done
7 things in the past, which is rules, you know,
8 things that are really hard coated, just looking
9 for direct mismatches, you know, is this person
10 missing from the system completely. You know,
11 those types of things. And I'll talk about that a
12 little bit more as we go on.

13 And the last part is really trying to
14 feed the answers that you-all need from this Task
15 Force and everyone else that's involved in this
16 process, is that reporting and business
17 intelligence. So what do people need at the line
18 level? What do you need at the supervisor level,
19 up in management? And what do you need to report
20 out to committees so that you can truly say here's
21 all the leads received, here is what we're doing
22 with them, here's the outcomes we're getting, and
23 it's all put together very well and comes out for
24 you, and you have it there on a dashboard level.

25 That basic framework, then, supports

1 the key things that you were trying to achieve, 13:42
2 which is really how are we detecting the people
3 that aren't covering their workers, how do we find
4 out who's going on there. And in particular, as
5 you start to see those mismatches of information 13:42
6 from different agencies, it really helps you
7 triangulate around someone and say this behavior
8 pattern doesn't make sense. This really looks
9 like an outlier.

10 Begin to build in something that's 13:42
11 really going to the next layer, which is linking
12 them -- what if it's not just one company but
13 these people are involved in many companies, they
14 have a whole set of shell companies, a whole
15 structure that's going on, or we caught them once, 13:42
16 and now they've morphed into some new businesses,
17 they put it under their employee's name or the
18 girlfriend or the wife or the next-door
19 neighbor -- and try to see how these people are
20 connected so you can truly take a look at things 13:42
21 that way, so you can investigate more than one
22 case at a time.

23 What if you knew, if you were sending
24 someone out, we have six companies here we're
25 dealing with instead of one. That really changes 13:42

1 things from that resource perspective. And then 13:42
2 be able to focus on those alerts, feeding them to
3 the right people, particularly if you have
4 multiple agencies. You can make decisions around
5 who gets to work what particular queue so that you 13:43
6 can really take a look and see what do we do from
7 the Task Force and how could our other partners
8 help us. How can we give them some leads and make
9 some decisions together around how we work this.

10 And then it's all the stuff you've 13:43
11 heard a lot about. It was great to see Matt
12 Capece here. I've had an opportunity to have him
13 come in and talk to our Task Force when we were
14 doing this in Washington. So he and I have had a
15 connection for a number of years. And it's great 13:43
16 to have that broader view, because I know that
17 you've really done a lot of deep things here.
18 You've done the studies.

19 But it's all the things you're
20 seeing. You're seeing work crews. So you've got 13:43
21 a number of people on the books because they're
22 trying to actually look like they're compliant.
23 They know we're going to get some unemployment
24 claims, we're going to get some workers' comp
25 pieces because we're big enough, so let's throw 13:43

1 one person on the books for every five or ten that
2 are off the books. We cut a check to them. It
3 looks pretty reasonable. They run down to the
4 check cashing place, hand it all out in cash. Now
5 people aren't even making minimum wage in a lot of
6 cases. Nothing is being paid.

13:43

7 You know, that was one of the big
8 things that showed up for us when we pulled
9 information together. We compared -- one of the
10 things we compared was workers' comp and
11 unemployment. What we saw was this company that
12 looked fairly new, really big, I mean, hundreds of
13 employees. And what they were actually showing
14 was really high wage rates, because we compared
15 them to their peers, looked for outliers, looked
16 for anomalies. And they were showing wage rates
17 that were, you know, five, ten times the industry
18 average or more.

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19 And, in fact, that immediately showed
20 us, wait a second, these are crews. And that's
21 exactly what we found. It was a multimillion-
22 dollar case. They were trying to keep people on
23 the books to make themselves look reasonable.
24 They would have in every other way. But the
25 moment we did that comparison, we found that

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1 outlier and we went after them. Which was good 13:44
2 because I was just about ready to change my type
3 of employment because I thought that's much better
4 than government and they're paying better.

5 Looking at those false corporate 13:44
6 owners, particularly with some of the law changes
7 you've had here, that was one of the big trends we
8 saw in Washington really back in -- it was back in
9 the '90s when we saw a lot more of this. It was
10 in the '90s, early 2000s, you know, LLCs, 13:44
11 corporate owners. You know, we made a couple of
12 law changes around that, but we really saw them
13 just sort of move back away because we managed to
14 kind of put a fence around that.

15 But then, guess what, everyone is 13:45
16 just a 1099, you know, the typical thing that you
17 run into there, taking a look at those issues.
18 Just the general underreporting. So maybe
19 everyone's on the books but we're reporting them
20 at half the hours or just showing a lower-risk 13:45
21 class. This person's roofing; it's not the
22 estimator, it's not the secretary. You know,
23 normal case of business for how they do the
24 cheating, trying to climb all of those things.

25 So approaching it with SAS fraud 13:45

1 framework, we start with things like rules. So, I 13:45
2 mean, you're always going to encode the rules. A
3 nice, simple example of this was one of the things
4 we looked for in Washington was, great, if we have
5 a claim and we don't have any coverage or we have 13:45
6 a claim and we don't have any coverage in that
7 risk class that quarter, done. We're
8 automatically auditing them. Great rule. You
9 wouldn't want to necessarily get rid of that. You
10 keep things like that. You keep things like key 13:45
11 mismatches. Those are really good and some of
12 them are perfect. You want to keep that in place.
13 But rules and simple threshold
14 matches create a lot of false positives. That was
15 one of the narratives I heard when we were talking 13:46
16 before the meeting started, is the last thing you
17 want to do is send your folks out because we got a
18 hit but we really have no idea whether this is the
19 right one or not. You know, when we started, we
20 had people in the right place 50 percent of the 13:46
21 time. I don't know how that compares against the
22 rest of the world. Maybe that's okay. Maybe that
23 was awful, but I thought that was quite a waste of
24 what limited resources we had.
25 We started to do a lot of data 13:46

1 mining, matching with other agencies. We had that
2 climb to 60 percent. We had to climb past that.
3 As we started to implement an approach with a
4 framework with a hybrid detection model, we saw
5 ourselves quickly jump to 70, to 75, and then
6 climbing from there, 80 percent.

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7 The idea is really making sure that
8 if you're going to investigate, you want to be in
9 the right place at the right time. 100 percent
10 may be a little unreasonable. My guess would be
11 at that point you've gotten so conservative that
12 there may be a lot of things that are missing off
13 the table there.

13:46

14 But you take that and you add to
15 that -- again, sorry to the folks on this side --
16 Anomaly Detection -- don't worry, I'll speak it
17 all just because it's on this side -- and that's
18 really trying to look at patterns that don't
19 match. I talked about that a little bit, that
20 idea of comparing you to yourselves, comparing
21 people within the industry, within the geography.
22 Look for like companies. What should things look
23 like? What level of revenue should they have?
24 What should their other taxes look like? What's
25 that wage rate? Does that make any sense compared

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1 to the industry? You can start to look for those
2 outliers.

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3 You can also start to look for
4 behavior that's outliers within the company
5 itself. Wait a second, they have this one trend,
6 something is dramatically changed now. Because
7 occasionally you get folks where things were
8 humming along. They actually were being honest at
9 one point in time. Something changed in their
10 life and they suddenly start to drive themselves
11 underground. There might be an opportunity to
12 take a look at it.

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13 Then it's adding on -- really diving
14 deep into the analytics. And one of the key
15 approaches here is predictive modeling. It's
16 taking everyone that you've already looked at, all
17 of those audits, all of those investigations, not
18 just from the Task Force but potentially all of
19 those other agencies that feed into that rich data
20 set around employer misclassification, and begin
21 to say what were the true specifics of those,
22 deep, all the factors?

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23 And so a good example here was a lot
24 of the things that came out from the predictive
25 models were things that we expected. It's just

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1 things we couldn't find ourselves so quickly in 13:48
2 the data because you had to be looking for it
3 manually, you had to be diving deep as opposed to
4 having it automated in there for you.

5 But some of the things were 13:48
6 surprises. We had one field on our reports for
7 workers' comp premiums that was optional. I can't
8 explain why it was optional. I worked there for
9 20 years. It was there before I got there. But

10 what the modelers -- what the folks from SAS found 13:48
11 out is they took a look at things and saw a
12 company that in every other way looked the same as
13 its peers that didn't fill in that optional box
14 was 70 percent more likely to be committing fraud
15 and underreporting. Dramatic. 13:49

16 And we would never have looked at it
17 because it was optional. Sometimes we had it and
18 sometimes we didn't. It was a data point we could
19 get from another agency, from our unemployment
20 folks. We never would have looked at it. And 13:49
21 it's important to really dive deep in the data to
22 be able to pull that together so you can start to
23 target those folks in the future.

24 For us, what that left us with was
25 the question of do we change it and make it 13:49

1 mandatory. We actually had this internal
2 discussion and finally decided leave it the way it
3 is and don't tell them. Because now they're
4 really opting in and just showing us they're being
5 fraudulent. Because even though they were lying,
6 they didn't want to tell the government anything
7 more than they had to.

13:49

8 So please don't tell any bad guys in
9 Washington. I can trust everyone in this room,
10 right? But it's those kinds of things you start
11 to drive up.

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12 And then it's that social network
13 analysis. I already mentioned that a little bit.
14 It's making those connections. By this I'm
15 talking about social networks, not social media.
16 Okay?

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17 Now, you can use social media as a
18 way to build out networks. That's one of the
19 things I think will be very interesting for a Task
20 Force like yours, because you see Craigslist as
21 being a huge place that a lot of the underground
22 economy goes through. You can also find some very
23 interesting connections between these people that
24 supposedly don't know each other but are connected
25 through Facebook and other places like that. You

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1 can pull in feeds with that to be able to take a 13:50
2 look at things.

3 But it's that whole idea of looking
4 at who is connected to who and should we really be
5 looking at this case. You know, how often do you 13:50
6 see people employed by, you know, someone -- so
7 let's say they're employed by John's Construction
8 Company. This guy is named Dave. All of a sudden
9 you guys start taking a look at John's
10 Construction Company. They get into a little 13:50
11 trouble. The next thing you know, Dave has got
12 his own company and John is working for him.

13 That's a really interesting connection that
14 you're -- once in a while can really happen in the
15 real world but not very often. A great 13:50
16 opportunity to start to take a look at,
17 particularly if you see the rest of the employees
18 come over with them. It's that type of connection
19 that becomes interesting.

20 And then the last piece is whether 13:50
21 you really want to dive deep into unstructured
22 data, into reports, safety inspections, those
23 kinds of things that are free text and are things
24 that might be written by investigators, by
25 auditors, and might even be, you know, the record 13:51

1 of a phone call communication with the agency. 13:51

2 And this is also where you can dive out to things
3 like Craigslist, like Facebook, and start to use
4 text mining to be able to pull those pieces in and
5 really enrich the data that you already have. 13:51

6 So on the social network analysis, I
7 just wanted to mention it a little bit deeper
8 because the thing there is that we really focus
9 around whatever the links are, and so we can make
10 those connections between the owners and the 13:51

11 employees of the different businesses. But it can
12 also look deeper. It can look at the shared
13 addresses or phone numbers that wouldn't have made
14 sense, referrals between people that are going on,
15 and those kinds of contractor and subcontractor 13:51

16 relationships over time. If you start to generate
17 that data -- that was something where we started
18 to really look into our preventive wage projects,
19 where people are actually doing work for the State
20 in construction. And we changed the way that was 13:51

21 required so they had to report every single sub,
22 all the way up and down, so we could see the
23 entire relationship in the chain and then begin to
24 use that moving forward.

25 You can even look at IP addresses. 13:52

1 Sometimes that's very interesting with some of the 13:52
2 agencies where there are a lot of the interaction
3 or people are signing up through computers. And
4 you'll start to see that shared computer, and it's
5 not the one at the library. It's always important 13:52
6 to know those extra facts. It starts to get
7 interesting.

8 And when they build out the social
9 network, it will really focus on what is the
10 connection, so you can see the center. I was just 13:52
11 looking at one yesterday, and the main
12 connection -- I mean, while these people were all
13 connected, what was interesting was the shared
14 address among seven people. So the address is
15 what showed at the beginning of the network rather 13:52
16 than just one employer. So you can really see
17 that focus of, oh, this is a big thing, this
18 building out this particular network.

19 So I wanted to give just a couple of
20 customer case study examples. One is with the 13:52
21 state of Louisiana. And so when SAS started to
22 work with them, they were looking at, you know,
23 both sides of the issue for unemployment as well
24 as workers' comp. So they were looking at the
25 claims side as well as the employer's side. 13:53

1 They had very antiquated systems, some 13:53
2 old mainframe stuff. They were actually
3 distributing audit and investigation cases on
4 paper. So there are staff that were doing --
5 particularly on the unemployment side -- I mean, 13:53
6 were getting cases, writing them than on paper.
7 No integration of systems, even with the
8 Department. And the State actually decided to
9 take an enterprise approach to fraud. So what
10 they actually decided to do was say let's sort of 13:53
11 broadly license this approach with the entire
12 state, but then we start to carve it off in
13 individual projects. So that idea of don't do
14 big-bang implementations, let's get it focused
15 back. 13:53

16 They started on the unemployment tax
17 side of things and particularly focused around
18 what's called SUTA dumping. So this idea of, you
19 know, a business starts to lay people off. Their
20 rates go up. As a result of that, they begin to 13:53
21 dump the employees off onto other businesses,
22 trying to unfairly lower their rate. So, you
23 know, just another example of how they're working
24 through that type of underground economy, you
25 know, they're misclassifying and misplaying things. 13:54

1 And they ended up making some law changes, some
2 policy changes that are going to be able to bring
3 the data together, and really focused on a quick
4 start. So SAS worked with them a hundred days on
5 the project and said here is a list of the best
6 leads that we have. Now, at first, admittedly --
7 because the whole interface wasn't in place --
8 that was even on paper, or at least on electronic,
9 but, you know, sent to them.

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13:54

10 And they were able to recover over \$1.1
11 million within 20 days after that. I mean, it
12 just gave them some really fantastic leads. And,
13 frankly, they had such a good smoking gun that
14 they really just approached them and said, you
15 know, that's it, you need to come clean right now.
16 We want checks on the barrelhead or we're going to
17 go after you criminally.

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13:54

18 Now, it's interesting and it's not
19 always going to work with everybody, you know, but
20 they manage to shake a big stick. And one company
21 alone, I believe, was over \$750,000.

13:54

22 Now, they also saw, as they got things
23 implemented, their case investigation time drop
24 dramatically. Now, again, they were working off
25 of some pretty manual processes before, but the

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1 idea of pulling all this information into one 13:55
2 place, putting it in a real simple interface, you
3 know, just a few screens so that you have all the
4 things that you need to be able to triage, make a
5 decision if you're doing a full investigation, and 13:55
6 then actually conduct it.

7 This one is getting a little further
8 afield, but you did talk about the fact that
9 employee misclassification starts to affect
10 everything, every type of tax, every type of peril 13:55
11 tax. And the reason I thought that the Australian
12 taxation office was a good example is that -- they
13 did a couple of things. One, they're the
14 equivalent of the IRS. Now, unlike the IRS, they
15 also collect sales tax for the entire country, so 13:55
16 they really had a big issue, 539 million records.

17 So, one, I wanted to show you the size
18 of data so if you think, gosh, we're pulling data
19 from a lot of different agencies, don't worry.
20 Big data is not going to make the solution choke. 13:55
21 And they realized there's so many problems, like,
22 where do we start. And so we really sat down with
23 them and tried to walk them through, you know, in
24 white boarding sessions and really plan out, okay,
25 well, what are some of your biggest exposures. 13:56

1 Okay. Well, they were concerned about 13:56
2 false sales tax refunds. And now they get his
3 twice, you know. We're actually sending checks
4 out to people. Not only were you not collecting
5 but, you know, now you're taking a double hit. 13:56

6 They were concerned with, you know,
7 people that were missing from the system -- so one
8 of the things that you are shared with, both
9 individuals and businesses -- who isn't registered
10 or paying at all, who isn't submitting tax 13:56
11 returns, as well as some of the other things
12 around risk.

13 So they began to carve those things off.
14 They also used our solutions to say not only do we
15 want to do a better job on detecting who we should 13:56
16 be targeting, but we realized we need to be
17 thinking about this comprehensively, from
18 beginning to end. Who should we be, you know,
19 initially going after? How do we optimize when
20 and where and how we do those audits? How do we 13:56
21 think about the same thing through the collections
22 process? They're going to owe money. Are we
23 going to be able to collect it? Is there a
24 possibility they're starting to go insolvent? So
25 now we have an opportunity here of being on that 13:57

1 one sooner than another. Let's get that business
2 before it goes out of business so at least we've
3 taken care of that one.

13:57

4 They actually ended up doing -- well,
5 they had a better detection system in place. They
6 actually ended up starting to do less audits in
7 some areas. They really found out how to optimize
8 their work and ended up shifting some staff
9 around. So they truly found such success there,
10 some real opportunities that actually enabled them
11 to, you know, make some adjustments around how
12 their existing staffing workload managed to play
13 out. And from that, it was about \$400 million --
14 a little under that -- a year in tax gap that they
15 were closing. Admittedly, that's big.

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13:57

16 So let's dive down to something that's a
17 little bit closer to home here. So Washington
18 State, in terms of population, number of
19 businesses, things like that, it's actually pretty
20 similar to you guys. There's, like, a 5 percent
21 difference. So I would like to think, even though
22 we're geographically diverse, we have some
23 similarities there.

13:57

24 So lots of words on this screen. I
25 apologize about that. I was trying to cram things

13:57

1 in. 13:57

2 So let me talk about our own experience.

3 So our role for labor industries, we oversaw

4 workers' comp, and in our state, that is the one

5 big difference for those of you that don't already 13:58

6 know. It was an exclusive workers' comp system,

7 so we didn't have the private insurers. So I will

8 recognize that that was a point that's different.

9 But I've also been working now with some other

10 states where we try and look at things where you 13:58

11 do have all the private insurers in play.

12 And what's good is the way that you've

13 tried to pull people together here. You can

14 really have some opportunities around saying

15 there's still ways to get the correct data in to 13:58

16 be able to start to work with this and target

17 things.

18 We also did the safety inspections for

19 the State, took care of wage and hour laws,

20 licensed the contractors. So a lot of different 13:58

21 plays around that thing, particularly in

22 construction. We decided to form a centralized

23 fraud unit in 2004.

24 So prior to that, I had really come up

25 through the employer side, but we had them working 13:58

1 a little bit separately, decentralized, had them 13:58
2 put that major focus on it. I hate to say it. We
3 were like the red-headed step children of the
4 agency. Don't talk about it. Don't talk about
5 fraud. Don't talk about abuse. No. No. No. 13:59

6 And I think they made the mistake of
7 actually asking their constituents what they
8 thought. So we said here's all the things our
9 agency does, and please rate us on which are most
10 or least important to you, probably 20, 25 13:59
11 different items, and then rate us on how well you
12 think we're doing at it.

13 And off by itself in the corner, saying
14 we think it's really important and we think you
15 just are awful, was this whole idea of fighting 13:59
16 fraud, and particularly the underground economy
17 and things like that.

18 So it got us to focus on some specific
19 efforts, first in construction that we ran as
20 projects. We realized projects aren't enough. 13:59
21 You really need to treat this stuff like it's
22 permanent. And when they pulled together the
23 fraud unit, that's when I took over, in 2004.

24 And then we started pushing for some of
25 the tools. I heard you talking about tools and 13:59

14:00

14:00

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14:00

a very limited opportunity again. These are 14:00

1 really targeted things. There were -- if it went 14:00
2 in bankruptcy, if there were other provisions that
3 were met, there's no way we're doing it. We
4 weren't doing it just because someone was
5 delinquent. It's because they had truly committed 14:01
6 fraud. So we really tried to focus on those types
7 of things.

8 We did audit some of the -- we did add
9 some additional staffing. We also made a lot of
10 internal shifts where the agency tried to, you 14:01
11 know, recommit from our own resources. And we
12 started really doing some deep matches with our
13 employment agency, with our State Department of
14 Revenue, prevailing wage and safety. We had
15 always had some access to data there, but a lot of 14:01
16 times it was individual screens. So you already
17 had to know who you were looking at before you
18 could go find out more information. That's great.
19 It's very helpful to auditors and investigators to
20 be able to get that additional information, but it 14:01
21 doesn't help you find out where you should be.

22 You have to get it working together behind the
23 scenes electronically for a detection standpoint.
24 Our Employment Security Department is
25 the one that was responsible for unemployment, and 14:01

1 so they decided to form a specialized unit around
2 fraud, the underground economy, and that SUTA
3 dumping we talked about earlier. And they really
4 started to also increase the matches they did with
5 us and the Department of Revenue. So we all
6 started really generating a lot more leads off of
7 our own data.

14:01

14:02

8 And then the legislative task force was
9 formed that I talked about earlier, and that was
10 a -- I really liked the approach that they had
11 there. We had both House and Senate, majority and
12 minority leaders there. We had business at the
13 table. We had labor at the table. And we had the
14 three taxing agencies at the table. And I think
15 that that really helped bring the attention
16 correctly to the risks here, as well as be
17 thoughtful about how you move forward on things
18 like stop-work orders. That was one of the
19 outcomes, was getting a stop-work order provision.

14:02

14:02

20 When I heard you describe Connecticut,
21 there was a lot of things that we ended up doing
22 that was very similar to that, you know, where a
23 field inspector couldn't just issue it. They had
24 to do a quick write-up and it come up to me at an
25 assistant director level to make that decision.

14:02

14:02

1 We also made a provision to make sure I 14:02
2 could turn it around the same day so that he'd get
3 that served. We could serve it on just one job
4 site and just impact that job site, or if they
5 were bad enough, serve it on the company, 14:03
6 essentially their headquarters, and shut them down
7 statewide. We had bonding provisions, appeal
8 provisions, speed of appeal provisions, really
9 trying to be thoughtful about how you step out in
10 something like that while still saying it's a 14:03
11 very, very useful tool.

12 And there were other enforcement tools
13 that came along. Also did some good alignment
14 around definitions. Who is an exempt independent
15 contractor? That's important. And many, many 14:03
16 states are struggling with what that looks like.
17 And what we really tried to do was align that
18 between the different agencies so it looked the
19 same for unemployment as it looked for workers'
20 comp, as it looked for a prevailing wage, those 14:03
21 types of things.

22 And also had -- and when there were
23 state projects involved and there was retainage to
24 be released, made sure that all the agencies that
25 could have an issue had an opportunity to review 14:03

1 that before that retainage went out, because it's
2 that, sort of, double-edged sword again. First,
3 they haven't paid to the State what they owed in
4 taxes and premiums and workers' comp coverage they
5 should be paying, and then on top of that, we're
6 giving them money.

14:03

7 So that really wasn't the ones that we
8 were the most concerned about. It's, like, geez,
9 that's the last thing we want to do, is actually
10 show the State supporting this behavior. We're
11 actually supporting the underground economy. So
12 that was another provision that we looked at.

14:04

13 So from that, then, we ended up building
14 to this idea of a comprehensive solution. As we
15 have done a lot of these matches, we've done a lot
16 of this work, I saw our audit results triple. I
17 saw much more effective compliance but, in fact,
18 getting better actually showed me, showed us, how
19 far we still had to go. And that was why we
20 decided to say -- right now -- we had come up with
21 50 or 75 different models. And they kept running
22 all these things in parallel.

14:04

14:04

14:04

23 So here is a series of matches. Here is
24 a series of matches. Our staff would get it and
25 sift through those leads and make a determination

14:04

1 on what goes out. But if you have a hit on one
2 list and you have a hit on another list, how do
3 you know which one is more important? How do you
4 know which one is a better opportunity? How do
5 you know someone has hit ten lists instead of one
6 and maybe they should be a little bit more
7 interesting?

14:04

8 We've been seeing rising rates for
9 honest employers, definitely hearing the same
10 issue, particularly -- I mean, it's big in
11 construction because the rates are higher, but
12 you're also bidding on jobs. It's all about
13 dollar versus dollar.

14:05

14 The thing I like to say is that I never
15 saw a restaurant go out of business because the
16 restaurant across the street was undercutting my
17 workers' comp. Now, they should still be paying
18 and darn straight we went after the restaurants,
19 too, but it was a different issue around the level
20 playing field and it didn't impact them quite as
21 quickly. It didn't impact them as deeply. And in
22 our state, because of that mandatory coverage, we
23 were liable for the claims even if the company
24 wasn't covered at all.

14:05

14:05

14:05

25 So that's a really interesting way of

14:05

1 running insurance, so you can just imagine that
2 was what really drove us to be able to focus on
3 that.

14:05

4 So our key area of focus was issues
5 around misclassification and unregistered firms,
6 so who is not carrying coverage at all that does
7 have people that should be -- that are employees
8 that are covered workers. We eventually pulled
9 together data from 15 different programs in 5

14:05

10 different state agencies, so we pulled together
11 the unemployment agency, many programs from our
12 department, the Department of Labor, Secretary of
13 State, Department of Revenue and Department of
14 Licensing. We tried to get that broad view of
15 what's going on.

14:06

14:06

16 The Secretary of State data, as you guys
17 have also seen, is very interesting because that's
18 often that first entry point. So where they file
19 for that LLC is where they file for that
20 corporation.

14:06

21 So in particular, we found that that was
22 really useful in finding -- and this is missing
23 from everybody else -- if you're in business and
24 you're in business in construction and even the
25 Department of Revenue doesn't know about you, boy,

14:06

1 that really sounds like an issue. 14:06

2 But also, if you've been a problem with
3 us and now we see a new filing -- we just started
4 reaching out to them. "You seem to have some past
5 problems. We noticed you just started a new 14:06
6 corporation. Let's talk now before you start to
7 run into trouble."

8 And that was really shocking to those
9 people when we started making those first few
10 phone calls. They weren't expecting the State to 14:06
11 be on top of it and be looking at them so quickly.

12 We included the seven years of past
13 audits. You don't have to go that far. I've seen
14 very good success with just two or three, but, you
15 know, for us, we thought, you know, let's go back. 14:07
16 Let's go deeply back into the program so we can
17 really get a sense and include many thousands of
18 those like you talked about, over 1,200 cases that
19 you looked at. And so we ended up including -- it
20 was over -- I think it was 30,000 cases in total. 14:07

21 You know, so you can really look at it.
22 You can look at it a little or you can look at it
23 a lot and really try to get a sense of what's
24 going on. That phased approach that I talked
25 about, so you can start to get wings along the way 14:07

1 and start to show a good return and start to show
2 the constituents it's something that works.

14:07

3 And while we had instituted this within
4 the Department of Labor and industries, and our
5 main focus was on workers' comp, exactly what we
6 were hoping to happen happened, which was, by
7 having the data from all those other agencies
8 playing together, our system became the number one
9 source of audit referrals for unemployment because
10 the laws were similar, and became something like
11 the number three source for our State Department
12 of Revenue.

14:07

14:08

13 So that message I've heard from you
14 already today that this is a shared issue, and if
15 you pull the data together and look at it more
16 collectively, you can get wings for everybody.
17 And then you can make decisions. Sometimes it was
18 a decision to say "Let's all go after this bad
19 guy." Other times it was a decision that you
20 would instead say "Let's split up our resources.
21 While we could go after the same one, why don't
22 you take this one and we'll take this one, because
23 we just don't have enough people to be
24 everywhere."

14:08

14:08

25 And then if you're going to go do it, at

14:08

1 least tell them about the issue they have with the
2 other agencies. Sometimes that was enough that
3 once they already got nailed by one, they just
4 decided to change their reporting with another, or
5 pick up the workers' comp, you know, take care of
6 those kinds of things.

14:08

7 We saw our case screening times, so
8 taking a look at a lead and triaging it and making
9 a decision on whether it was going out for a full
10 audit dropped 80 percent. I already told you
11 about the fewer false positives, really trying to
12 drive up that hit rate. It was 74 percent around
13 the time I left and going up around 80. And we
14 saw in the first year, after we implemented,
15 another 65 percent increase around the dollars.

14:08

14:08

16 You know, we did -- and some of the
17 other things that we've talked about are critical.
18 We did have penalty provisions in place. We
19 had -- you know, one of the other things we did
20 was we made a change to set forth a criminal
21 provision just for workers' comp, just so you
22 could say -- as opposed to under general fraud
23 provisions where it was a little bit tougher to
24 make some of those stories -- it was really clear
25 to say what does it mean for a company to be

14:09

14:09

14:09

1 breaking this law? 14:09

2 If they're not carrying coverage at all,
3 it was a misdemeanor level. If they were carrying
4 it but specifically lying or had it and then shut
5 it down while still having workers, then it was a 14:09
6 felony. So it was a real interesting distinction
7 there. We had an opportunity for a penalty of up
8 to two times the premiums they should have paid if
9 it was a completely unregistered firm, up to ten
10 times if they were doing other fraudulent pieces, 14:10
11 keeping their workers off the books.

12 And particularly, what we started to do
13 was step that up if they were repetitive. If we
14 were catching them a second time, a third time,
15 that's when we really started to scale it up in 14:10
16 terms of being able to do those.

17 I'm just about finished here, and I hope
18 we're still okay on time.

19 So I want to show you two other things
20 just so you can see a little bit of -- this was 14:10
21 very specific to Washington State -- but a little
22 bit of, visually, how we put this together, with
23 the idea being you pull this information together,
24 you give people these leads, they have to make
25 sense. You have to explain why is this case 14:10

1 scoring high, you know, and really give them those 14:10
2 leads. And then give them visuals so they can
3 understand it.

4 So this is an example of data that we
5 pulled from the unemployment agency. So you can 14:10
6 see the hourly wage here on the scale, so that
7 case example I gave you here didn't stop at \$24 or
8 \$26. It was going up to hundreds, you know, where
9 they had the outlying wages. And then it's the
10 various quarters that they were reporting. 14:11

11 Each dot represents an individual worker
12 so you can hover over, see who it is, see what's
13 going on. All this data is also in tables within
14 the system. But it's all pulled together here.
15 Again, we've changed names and numbers to protect 14:11
16 the innocent and/or guilty so none of this is real
17 in terms of social security numbers and things
18 like that.

19 But what we're doing there is we're
20 comparing them to their peers, so if you say okay, 14:11
21 this company should look like other companies in
22 this business. This data is going to look very
23 different for a restaurant than a construction
24 company, than a software company, than a trucking
25 company, I believe is one of the ones you 14:11

1 mentioned, home health care, and all those kinds 14:11
2 of things. So compare them to their peers and
3 start to see what's the outlier.

4 What you would expect is that this blue
5 line that represents the average that's going on 14:11
6 there falls within that white area. That means
7 you do look like your peers with a 95 percent
8 confidence interval. When you start to fall
9 outside of that, you start to look really
10 interesting. That's when you start to show up as 14:11
11 an anomaly.

12 The company that I was talking about
13 earlier that was paying a really high wage rate,
14 they were off the charts on the top end. When we
15 first thought of this, when we were thinking -- we 14:12
16 were looking for the people that were low. We
17 figured, okay, they're keeping half the money off
18 the books, they're only showing some of the P's,
19 they're just trying to underreport. That was a
20 real surprise to us when we saw, oh, in fact, this 14:12
21 also works the other direction. You can see those
22 work crews that are showing up and things like
23 that. So that's one example.

24 The other one takes just a little bit
25 longer. One difference that we have in workers' 14:12

1 comp in Washington compared to most states, beyond
2 the lack of private insurers, is a rate that's
3 based in dollars per hour based on the risk as
4 opposed to a percentage of payroll.

5 So it ultimately can be recalculated to
6 a very similar thing, but it's in dollars per
7 hour. So what you're seeing here on the left-hand
8 side is the rate in dollars per hour. Each one of
9 these -- which you have the four quarters there --

10 so you're seeing each one of these lines,
11 essentially, with the different dots represents a
12 single quarter's worth of reporting.

13 Each one of these dots or circles
14 represents one type of risk that's assigned to
15 this company. So this is a painting company. So
16 up at the top, their most -- their riskiest
17 classification is around exterior painting. Then
18 they have that interior painting. Then you have
19 things like estimating, and then you have things
20 like clerical. So you have the various, you know,
21 ranges that go on there.

22 So a lot of what we've seen is that idea
23 of, you know, misclassifying the risk. So you're
24 putting something on the books but, you know,
25 you're not necessarily putting the honest pieces.

1 So highest risk at the top, lowest risk at the 14:13
2 bottom. The size of each one of the bubbles on
3 the screen represents how much is reported there.
4 So if it's large, that's where they're doing most
5 of their reporting. If it's very small, there's 14:13
6 very few hours that are showing there. So in
7 other words, they're saying, "We're not doing much
8 work that has that type of risk."
9 See those dots on the top towards the
10 right-hand side and that are grayed out? It means 14:13
11 they're saying, "We didn't do any work in that
12 risk that quarter." Now, surprisingly, the only
13 one that looks like that is the highest risk
14 class.
15 Now, let's add one more data point. Do 14:14
16 you see that in a couple of these examples that
17 red circle around it means there was a claim.
18 Now, the part that they know -- this was smart
19 fraudster. They learned our rule. They learned
20 the rule I mentioned earlier that says if you have 14:14
21 a claim -- well, first, if you have a claim and no
22 coverage, of course we're going after you. But if
23 you have a claim and you didn't report any hours
24 in that risk class, we're going to come audit you.
25 They know that they report at the end of the 14:14

1 quarter, after the claim has already happened. 14:14

2 So, not surprisingly, when they had an
3 injury in that exterior painting class, there were
4 plenty of hours there. You'll also notice that
5 the graph piece shows them in the white zone with 14:14
6 their peers. Every quarter that they didn't have
7 the claim, they supposedly weren't doing any work
8 there, zero hours. And all of a sudden they're
9 down in the gray area. They don't look like their
10 peers. 14:15

11 So, in fact, when we put the system in
12 place, what this showed was the anomaly that the
13 chances that your reporting pattern could so
14 perfectly follow your claims pattern are almost
15 impossible. It was well under 1 in 100 that that 14:15
16 would have been honest that this is the way things
17 worked out. And that's part of the importance of
18 what I talked about earlier which is the hybrid
19 approach to finding these things, looking at
20 predictive models, looking at anomalies, not just 14:15
21 looking at rules. They've beaten our rule.
22 That's why we never caught them in the past. They
23 understood how we were looking at things and they
24 adjusted themselves accordingly.

25 But a company that adjusts itself to fit 14:15

1 your rules, in fact, shows out as a big, flashing,
2 red light when you put in the proper detection
3 tools.

14:15

4 So just a little bit of wrap-up, and
5 then definitely available for any questions you
6 might have. A few of the particular things that I
7 was trying to approach SAS fraud framework -- the
8 idea is approaching the idea of federal work, not
9 just more work. So really trying to give people a
10 lot more detail, find entire networks as opposed
11 to just one company at a time. Because that's all
12 we've been able to do.

14:16

14:16

13 Our auditors did a great job. If they
14 started to find more links, they billed it out to
15 additional companies, but what if you knew that
16 from the very beginning. It really makes a very
17 effective difference there. And really trying to
18 look at scoring it for risk, what is the
19 likelihood that this is going on? Have they just
20 tricked one issue so they've broken a couple of
21 rules? Or is it also the predictive model that's
22 showing that they look like all of our past fraud
23 cases? Those will score higher.

14:16

14:16

24 And you can also look at the potential
25 for the value, because that may be one of the real

14:16

1 critical things you want to think about, is if 14:16
2 you're starting to get to those resource limits,
3 you can say we want to get everybody but, so help
4 me, here is the one that looks like they're
5 ripping us off and they're nailing their 14:17
6 competitors, and it's a \$40,000 problem or a
7 \$100,000 problem versus the \$3,000 problem.

8 Sometimes you may just want to make a
9 decision either not to investigate that or do that
10 one with a lighter touch. It's really trying to 14:17
11 reduce those false positives, begin to get rid of
12 the things that are just rules based and have a
13 lot of parallel things that can lead you down the
14 wrong path, speeding up that time to investigate,
15 and then really being able to provide all the 14:17
16 results at the end.

17 So basically, everything is tracked,
18 every lead the people are given, whether you made
19 the decision to send it on for investigation or
20 not, so that way, again, even the system can learn 14:17
21 from itself in terms of what were false positives,
22 what were the outcome of investigations. And
23 that's all fed back into the system, so it's
24 really starting to learn from the outcomes of
25 things and adjust accordingly. 14:17

1 So with that, I'll wrap up sort of the
2 formal part of it and make myself available for
3 any questions.

14:17

4 CHAIRPERSON JEFFERSON: Do
5 you-all have any questions?

14:18

6 (No verbal response.)

7 CHAIRPERSON JEFFERSON: At
8 this point, I move for a five-minute break. If
9 you have any questions afterwards, feel free to
10 ask Mr. Hammersburg.

14:18

11 We really appreciate your
12 presentation. Thank you very much.

13 (Recess observed.)

14 CHAIRPERSON JEFFERSON: Next
15 on the agenda is the committee reports. And first
16 we'll have the legal committee report by Dan
17 Bailey.

14:28

18 MR. BAILEY: I was going to --
19 when I took the break I ran upstairs to my office,
20 which is in the TOSHA division, and ran a quick
21 copy of the statute that authorizes the Tennessee
22 OSHA division stop-work orders which is not very
23 elaborate.

14:28

24 But our field operations manual and
25 our rules require a process where the investigator

14:29

1 or inspector must make contact with his

14:29

2 supervisor, must be talked with with the manager,

3 and then also contact with the administrator. And

4 the administrator basically makes the call whether

5 or not to issue a stop-work order.

14:29

6 And here is what our stop-work orders

7 look like (indicating). So this is not brand new

8 stuff to Tennessee. It's just that we don't have

9 it in the area of workers' comp. So it's not like

10 it's an unheard-of concept.

14:29

11 The legal committee met in

12 conjunction with the education committee, and we

13 held a joint meeting on September 12th of this

14 year here at the Department. In attendance were

15 myself, who is chair of the legal committee; Lynn

14:29

16 Ivanick, who is chair of the education committee;

17 Ashley Arnold, who is general counsel with the

18 Insurers of Tennessee; Adrienne Fazio, who is an

19 attorney with the Workers' Comp Division; Jeanie

20 Talton, who's with the Workers' Comp Division;

14:30

21 Jason Locke, with TBI; Kim Adkins with the Capitol

22 Strategy Group; Jeff Hentschel, who is the

23 communications director for the Tennessee

24 Department of Labor; and Bob Pitts, who is with

25 the Association of Building Contractors. All were

14:30

1 present for that meeting. Participating by 14:30
2 telephone were Kevin Hale of Hale Insurance and
3 Matt Capece of United Brotherhood of Carpenters.

4 We discussed five topics in that
5 meeting. And the first one was a telephone 14:30
6 conference we had with Florida officials from
7 their fraud unit regarding operation "Dirt Money."
8 The second item was items that should be addressed
9 and/or included in the 2013 report of the Task
10 Force. The third item was recommendations for 14:31
11 methods to level the playing field for contractors
12 who play by the rules. The fourth item was public
13 information campaign. And the fifth item was
14 future action items.

15 I'm going to cover Items 1, 2, 3, and 14:31
16 5, and then Lynn Ivanick will cover the fourth
17 one, which was public information campaign. And
18 the biggest part of the report is about Item 1
19 because it goes into a lot of the explanation.

20 Regarding Item 1, which is a Florida 14:31
21 telephone conference on August 13 of this year, a
22 telephone conference was held here at the
23 Tennessee Department of Labor. In attendance were
24 myself; Blake Alford, who is an attorney with the
25 Tennessee Workers' Comp Division; Adrienne Fazio, 14:31

1 attorney for Tennessee Workers' Comp; John 14:31
2 Basford, Tennessee Workers' Comp investigator;
3 Carol Duncan, who's with Tennessee Workers' Comp;
4 Sue Gordon, Tennessee Workers' Comp; Jeanie
5 Talton, Tennessee Workers' Comp; Joe Jones, who is 14:32
6 with the Tennessee Employment Security Tax Audit
7 group; and Eric Glapa, who is also with the tax
8 audit -- he's a UI tax auditor; Santiago
9 Rodriguez, who is with our labor standards -- he's
10 our labor standards investigator; George Bell, of 14:32
11 the Tennessee Attorney General's Office; Alex
12 Reed, Tennessee Attorney General's Office; James
13 Milam, Davidson County District Attorney's Office;
14 Lynn Ivanick, Workers' Comp Advisory Council and
15 chair of the education committee; Kevin Hale, Hale 14:32
16 Insurance; and Bob Pitts, Association of Building
17 Contractors. All were in attendance for that
18 telephone conference.

19 And Karen Lazenby with the Tennessee
20 Contractor's Licensing Board participated by 14:32
21 telephone. The three Florida officials were
22 Detective Andrew Genio from the Fraud Division;
23 Major Geoffrey Branch from the Fraud Division; and
24 Deborah de la Paz-Boxer from the Fraud Division.

25 And basically, the Florida officials 14:33

1 shared with us a scheme that they contend is 14:33
2 rampant in the Florida construction industry. And
3 the basic way it works is that a person that they
4 call the "originator" will set up a shell company
5 or companies with no employees, and they'll set it 14:33
6 up in the name of another person, often a
7 fictitious person, and give the shell company a
8 generic name, not a name that you would associate
9 with construction services. You know, instead of,
10 like, Ace Roofing, or something like that, it 14:34
11 would be something that, to just to look at, you
12 wouldn't relate it to construction.

13 And the originator will then purchase
14 several minimum premium workers' comp policies in
15 the name of the shell company and then rent those 14:34
16 policies to construction service contractors for a
17 percentage of the profits. The construction
18 service subcontractor will bid jobs in the name of
19 the shell company and use the rented workers' comp
20 policy to show that they have proof of coverage. 14:34

21 The general contractor issues a
22 business-to-business check to the shell company
23 for the work performed by the construction service
24 provider who rented the policy. The originator
25 will have a prearranged setup with a check-cashing 14:34

1 service provider, who are part of this conspiracy, 14:34
2 to cash the business-to-business check for a
3 percentage of the check amount. The check-cashing
4 service usually has never met the person who
5 supposedly owns the shell company or who is the 14:35
6 principal owner of the shell company. The check-
7 cashing service will have a rubber stamp made of
8 the supposed owner's signature and a thumbprint.

9 The originator or usually someone on
10 his or her behalf called a "facilitator" will get 14:35
11 the business-to-business check cashed at the
12 co-conspiring check-cashing service, and then pay
13 the workers of the subcontractor, posing as the
14 shell company, in cash.

15 The shell company will usually 14:35
16 dissolve within a year just prior to the annual
17 audit by the issuer of the workers' comp policy.
18 The originator will then set up a different shell
19 company or companies after dissolving the first
20 one, and the illegal conspiracy continues. 14:35

21 Typically, when they get to a point
22 in an investigation involving a shell company
23 where they can obtain a subpoena to search the
24 check-cashing service, then the investigation
25 takes off because the check-cashing service will 14:36

1 basically tell them everything that's going on. 14:36

2 In part, to address this scheme,
3 Florida, through its employee misclassification
4 task force and its sub-task force addressing
5 check-cashing services, has caused some 14:36
6 legislation to be enacted to help with their
7 enforcement efforts in these areas.

8 Regarding check-cashing services, it is
9 a felony under Florida law for a check-cashing
10 service to possess the tools of the conspiracy 14:36
11 such as an endorsement stamp and a thumbprint
12 stamp of the supposed shell company owner who,
13 like I said earlier, is usually a fictitious
14 person.

15 It is also a felony in Florida for an 14:36
16 employer to not report to its workers' comp
17 carrier within seven days any changes to the
18 employer's operation that would have an effect on
19 the employer's policy. Under Florida law they
20 have the authority to issue a stop-work order on 14:36
21 any contractor that they find to not be in
22 compliance with the workers' compensation statute.
23 Florida law provides for either a civil fine or
24 criminal sanction for violating the stop-work
25 order. 14:37

1 Check-cashing services in Tennessee is 14:37
2 regulated by the Department of Financial
3 Institutions. A review of the Tennessee Check
4 Cashing Act, which is found at -- or begins at
5 Tennessee Code Annotated Section 45-18-101, 14:37
6 reveals the licensing requirements for check-
7 cashing service providers; it shows that the
8 commissioner of the Department of Financial
9 Institutions has the authority to do periodic
10 examinations of the check-cashing service and that 14:37
11 it is a Class E felony to knowingly and willfully
12 make a false statement in any document that is
13 required to be filed such as a cash transaction
14 report. Tennessee law does not prohibit check-
15 cashing services from possessing signature or 14:37
16 thumbprint stamps.

17 One of the recommendations from the
18 joint committee was that although we do not have
19 empirical data to show that the shell company
20 conspiracy described by Florida officials exists 14:38
21 in Tennessee, we certainly strongly suspect that
22 it does.

23 We do know there are situations where a
24 general contractor is issuing a business-to-
25 business check, large checks, to subcontractors 14:38

1 that are being cashed, and the workers are paid in 14:38
2 cash. We do know that's going on. I'm not
3 certain yet we have tied a check-cashing service
4 provider into that scheme yet, but I'm certain it
5 goes on. If it goes on in Florida and it goes on 14:38
6 in Washington State, I don't see why Tennessee
7 would be eliminated.

8 Basically, our recommendation is to help
9 in understanding how to address this scheme in
10 Tennessee. The joint committee recommends that 14:39
11 Tennessee's Employee Misclassification Task Force
12 be expanded to include the Tennessee Department of
13 Financial Institutions.

14 The second item that was discussed at
15 the meeting was items that should be addressed 14:39
16 and/or included in the 2013 report of the Task
17 Force. And basically we came up with five items,
18 the first one being the results of joint
19 investigations between our various agencies. I
20 know UI and Workers' Comp and Labor Standards have 14:39
21 all been working together. Kim mentioned the
22 round table, and I think that's very effective.

23 The second item is the report should
24 touch on what's happening in other states so that
25 it's not just -- we're not just the only ones 14:39

1 trying to address this. What are other states 14:39
2 doing? How are they doing it? What results are
3 they having?

4 The third item should be -- or we think
5 that to enhance enforcement on State contracts 14:39
6 that a recommendation should be made that the
7 State Building Commission, the Tennessee
8 Department of Transportation, and the Department
9 of General Services become members of the Employee
10 Misclassification Task Force. And that's 14:40
11 basically to address this kind of stuff going on
12 state-funded contracts.

13 Those of you who have been here many
14 times know that a particular thorn in my side is
15 where State dollars are paying contractors who 14:40
16 engage in this kind of conduct. And I think if we
17 can stop it there, at least it will stop. That
18 will help us move forward.

19 The fourth item is the efforts of the
20 Task Force in studying fraud detection software 14:40
21 systems, the experience other states have had with
22 such systems, and the possible recommendation of
23 the Task Force as to which fraud detection
24 software system should be pursued and why.

25 And the last item was recommendations 14:40

1 for legislation to enhance enforcement.

14:40

2 The third item that was discussed was
3 recommendations for methods to level the playing
4 field for contractors who play by the rules. And
5 we have five items under that category, the first
6 one being a public awareness campaign targeted
7 towards employers and employees in the
8 construction service industry.

14:41

9 The second item was departmental
10 speaking tour which, you know, have knowledgeable
11 speakers from the Tennessee Department of Labor
12 and the Department of Commerce and Insurance
13 available to speak at appropriate employer
14 conferences or employee conferences.

14:41

15 The third item would be place links on
16 the Employee Misclassification website to
17 educational materials.

14:41

18 Fourth item would be increase effective
19 enforcement.

20 And the last item was inclusion of the
21 State Building Commission, TDOT, and General
22 Services on the Task Force to assist with
23 enforcement on state-funded construction projects.

14:41

24 And I'm skipping the fourth item because
25 that's Lynn's.

14:42

1 And the last is 5, future action items, 14:42
2 and we have five under that category, too, the
3 first one being obtain fraud detection software
4 and analytical support to assist investigators.

5 The second item is to continue to 14:42
6 promote coordinated investigations among Task
7 Force agencies.

8 The third one is seek involvement and
9 assistance from State Building Commission, TDOT,
10 Department of General Services, and the Department 14:42
11 of Financial Institutions.

12 Fourth is develop contacts and working
13 relationships with officials, including law
14 enforcement officials, of surrounding states who
15 investigate and enforce their laws against 14:42
16 employee misclassification.

17 And the last item is to enter into a
18 memorandum of understanding with the federal
19 Department of Labor to foster joint investigative
20 and enforcement action with the federal DOL. 14:42

21 And Ms. Ivanick will get the last item.

22 CHAIRPERSON JEFFERSON: Very
23 good report. And this information hopefully can
24 be used in the 2013 annual report.

25 MS. IVANICK: Hi. Lynn 14:43

1 Ivanick with the education committee. Last year 14:43
2 the education committee put together kind of a
3 general public information campaign with various
4 lists of items of I think four different budgets
5 that ranged from 91 to \$251,000. And we heard the 14:43
6 gasps in this room and we paid attention to that
7 and we've taken great feedback from members and --
8 audience members especially -- from the Task Force
9 meetings and then in our committee meetings.

10 Then the legal committee allowed us 14:43
11 to jointly meet with them recently which was very
12 helpful because we had some great feedback in that
13 meeting as well.

14 This year we have cut back and very
15 narrowly focused the campaign. It was decided -- 14:44
16 first of all, we have this issue of having our
17 funding cut in half, which isn't helpful, so we
18 really have to watch the money on this. And we
19 decided to narrow our focus and target where we
20 could get the greatest amount of coverage for the 14:44
21 smallest amount of money.

22 It also dawned on us that a lot of
23 the people in the construction industry are young,
24 you know, just by the physical nature of the
25 construction industry, and that we really needed 14:44

1 to focus on that younger crowd. And they're all
2 electronically connected. They're not paying
3 attention to brochures and posters and items of
4 that nature, so we really want to focus on the
5 electronic, younger population.

14:44

14:44

6 So what we're going to do is
7 recommend that we use a lot of in-house state
8 workers -- well, they already have the information
9 and abilities to put together websites, links on
10 the website, kind of narrow it down.

14:45

11 We're still going to suggest that we
12 do use brochures. The individuals that Dan was
13 just talking about who are going to be going
14 around and speaking at different unemployment
15 conferences or, like, Chamber of Commerce
16 conferences or just meetings, if we could have
17 some of the state workers who are already speaking
18 to this issue go there and speak on our behalf.
19 But that would be a better use of a smaller amount
20 of money that would be required.

14:45

14:45

21 So that's kind of what we've decided
22 to promote and recommend, is that we look at the
23 specific items like telemarketing, coupons, those
24 things that were on the list; they need to be
25 eliminated. They were kind of wasteful. It was

14:46

1 determined that we should just basically focus on 14:46
2 things that weren't quite as expensive. TV is
3 expensive, cable is expensive, billboards are
4 expensive. We're going to eliminate those from
5 the list for now. You know, later on if we decide 14:46
6 that we want to or can add other items, we will do
7 so. The other thing is that at this time it was
8 determined that, cost effectively, Spanish
9 translation was probably the way to go, and get
10 that covered, and then if we are successful in 14:46
11 that, ask for the money for translation services
12 into other languages at a later time.

13 So basically, we've kind of narrowed
14 our focus and narrowed the group that we're trying
15 to reach and, therefore, cut down on the cost 14:46
16 immensely. We don't have exact figures but it's
17 still going to be in the \$6-to-10,000 range just
18 for the translation services alone.

19 But it was also suggested at the
20 meetings that money, as limited as it is, should 14:46
21 go toward enforcement probably before it goes to
22 advertisement.

23 Any questions on any of that?

24 (No verbal response.)

25 CHAIRPERSON JEFFERSON: Thank 14:47

1 you, Lynn.

14:47

2 Next on the agenda is Mike Shinnick,
3 the chair for the insurance committee.

4 MR. SHINNICK: Over the last
5 month or so, our committee has been focusing in on
6 analytic processes, data bases, systems that would
7 help us to detect fraudulent activities. And we
8 have met with four companies to this point. And I
9 think we got a pretty good survey of what's out
10 there.

14:47

14:48

11 We -- particularly from a size
12 standpoint we look at SAS, that they're the
13 largest private software provider in the world.
14 And so we've got from that end of the spectrum.
15 And some local talent in Kevin Hale and his
16 company, a little bit smaller scale -- a lot
17 smaller scale -- but we have worked with them or
18 are in the process of working with them to get
19 some approximate pricing information on what their
20 product would run.

14:48

14:48

21 We have feedback from two. We have
22 two that are outstanding that are going to require
23 us to -- some of the committee members get
24 together in a session outside of this venue and
25 provide some feedback and give them some ideas in

14:49

1 terms of what we're looking for from a software 14:49
2 standpoint. And so that's a to-do item list.

3 Risk Metrics and Insurance Technology
4 are somewhat similar in terms of what they do and
5 what types of products they provide. We've gotten 14:49
6 an actual price from Risk Metrics.

7 And what they do is they concentrate on
8 data that's supplied by the NCCI to the Department
9 of Labor and Workforce Development that they use
10 in coverage verification. It's called POC. 14:50

11 And that data is supplied in most all
12 states that NCCI services. It's a lot of good
13 information, information including number of
14 employees, payroll, premium, policy effective
15 dates, named insureds, just to name a few. 14:50

16 And as I understand it, in talking to
17 both Kevin as well as Risk Metrics, is that their
18 basis for providing information is through proof
19 of coverage, POC. And then they go to outside
20 sources such as Experian and to Dun & Bradstreet, 14:51
21 for example, to basically do kind of a cross-check
22 or a triangulation of data to come up with
23 suspects. And so they both do sort of the same
24 thing.

25 And when we talked to Risk Metrics, they 14:51

1 said that an example would be -- what they would 14:51
2 do is they would come in and find out that through
3 POC there are three employees covered under a
4 policy, the payroll is \$60,000, but they go to an
5 outside business credit bureau and report that 14:51
6 this entity is a masonry contractor with annual
7 sales of \$4 million with 20 employees. So you've
8 got a mismatch right there and that's an automatic
9 suspect. So that's the kind of thing that we
10 expect those two companies to be able to provide 14:52
11 for us.

12 The pricing for Risk Metrics,
13 approximate pricing, would be \$550 per thousand
14 records. And that would translate into if they
15 provided us 10,000 businesses that they have 14:52
16 red-flagged -- they have identified as a potential
17 policy conflict with reported information from the
18 third parties -- if they provided 10,000
19 businesses, then that would be \$5,500. So that
20 doesn't sound too expensive to me. But I think 14:52
21 we've got a lot of other questions to ask. But
22 that's just a start.

23 Thomson Reuters, who is kind of an
24 outlier in this process, provides intelligence
25 information on various businesses. And they 14:53

1 charge, if we had eight to ten users, \$99.60 a 14:53
2 month for users to access their system.

3 That system, as I understand it, would
4 not be one that identifies suspects. It's a
5 system that would be used, after we've already 14:53
6 identified suspects, to go deeper to try to find
7 out more information about -- more intelligence
8 about that entity.

9 And then SAS is the last one that we've
10 talked to and most recently. Just to give you a 14:53
11 little bit more information on SAS that was not
12 provided to you today, as I mentioned, they are
13 the largest software -- privately held software
14 company in the world.

15 In 2012, SAS anticipates revenues of \$3 14:54
16 billion. They have 12,000 employees servicing
17 50,000 customer sites throughout the world
18 including all 50 state governments, I might add.

19 In Tennessee they work with a number of
20 agencies, including the TBI, TennCare, and the 14:54
21 Department of Education. One interesting
22 statistic that they provided is that in 98 percent
23 of the instances, their clients renewed their
24 software programs with them, and 70 percent
25 actually buy more software and more intelligence. 14:55

1 And then 25 percent of their top-line sales are 14:55
2 invested in research and development, which is
3 about double any other data firm of their likes.

4 So Kevin has told us that our next step
5 is to sit down with him -- SAS has told us the 14:55
6 same thing -- and provide feedback and ideas on
7 what we're looking for.

8 The way I see it in the next couple of
9 months it's going to involve the committees
10 getting together, particularly the insurance 14:55
11 committees, because this is our focal point, and
12 really deciding what we want, what we're looking
13 for, what we think we need in a system, and then
14 providing feedback so that we can get a firm -- I
15 won't say "firm" -- but a general price for all 14:56
16 the entities that have met with us.

17 Our goal here is to be able to include
18 this in the annual report for 2013 and also to be
19 able to position the Department of Labor and
20 Workforce Development to be able to do a request 14:56
21 for a proposal next year for a system. So we've
22 got to move pretty fast and we've got our work cut
23 out for us. But that's kind of where we are at
24 this point.

25 Any questions? 14:56

1 (No verbal response.) 14:56

2 MR. SHINNICK: Okay.

3 CHAIRPERSON JEFFERSON: Just

4 to reiterate, the Task Force role is mainly to

5 make the recommendations for all of these things. 14:56

6 How these things are handled after we submit our

7 report will probably depend on the Department

8 since the Employee Misclassification Education and

9 Enforcement Fund is actually housed within

10 workers' comp within the Department. So the 14:57

11 Department would probably be the most likely

12 entity to actually decide how it's going to

13 happen. However, our role is to make the

14 recommendations and to provide that information to

15 the legislature. 14:57

16 The next thing on the agenda is the

17 public comments segment. Before we get to that,

18 though, I would just like to make an announcement.

19 Due to increased job responsibilities and private,

20 personal responsibilities, Carolyn Lazenby is 14:57

21 going to resign as chair of the research and

22 resource committee. However, Carolyn has agreed

23 to remain active on the committee and also to

24 continue to serve on the Task Force, so we really

25 appreciate that. 14:58

1 I would like to discuss the 14:58
2 possibility of appointing someone else to the
3 chair. And we're authorized to do that pursuant
4 to the statute. It says that we can appoint as
5 many persons as we need. 14:58

6 Dan spoke earlier about appointing
7 additional persons from General Services. Someone
8 mentioned the Department of Revenue at one point,
9 the other agencies that you mentioned earlier, we
10 have the authority to do that. So now we have to 14:58
11 maybe talk with officials from those various
12 departments or agencies and decide who is going to
13 serve on the Task Force. So that shouldn't be a
14 problem.

15 But getting back to Carolyn, I would 14:58
16 like to discuss the possibility of appointing
17 Dr. William Canak to the research and resource
18 committee, because Dr. Canak was involved in
19 employee misclassification prior to the
20 legislation. And he's very familiar with employee 14:58
21 misclassification, all the issues that we're
22 currently discussing, because guess what? Those
23 issues were in his report to the legislature.

24 So I think that he would be an
25 excellent addition to the Task Force, but I would 14:59

1 like to speak with him after the meeting and, you 14:59
2 know, just give you-all his input as far as that's
3 concerned, and -- speak with him after the meeting
4 and see if we can somehow include him on the Task
5 Force, because I think he can add a lot. And I 14:59
6 know that he'll assist us in providing these
7 additional reports to the legislature. He knows
8 exactly what they're looking for. So this is
9 going to benefit us and he's going to be an asset
10 to the Task Force. 14:59

11 So, Dr. Canak, would you like to say
12 anything at this point or just wait until
13 afterwards?

14 DR. CANAK: I would be honored
15 to serve. 14:59

16 CHAIRPERSON JEFFERSON: As I
17 mentioned before, as far as financial
18 institutions, Department of Revenue, the General
19 Services, and the other agencies that Dan had
20 mentioned, we will try to see if we can have 15:00
21 representatives from both agencies to serve as
22 well.

23 I mentioned earlier that the 2013
24 annual report is due on or before February the
25 1st, 2013, so the next few months will be spent on 15:00

1 trying to pull that together. So we have our work
2 cut out towards the end of the year.

15:00

3 Also, can you-all take a look at your
4 calendar when you go back to the office and see if
5 October the 18th is a good date for us to have our
6 next meeting, Task Force meeting.

15:00

7 MR. BAILEY: I can tell you
8 it's not good for me right now. The 17th and 18th
9 are both out.

10 CHAIRPERSON JEFFERSON: Okay.
11 Would you like to propose another date or would
12 you like to wait until --

15:00

13 MR. BAILEY: Not without
14 looking at a calendar.

15 CHAIRPERSON JEFFERSON: Well,
16 let's just wait on that. I thought I would throw
17 that out there. I know that Mike Shinnick had
18 mentioned the following week may not be good for
19 him, so either we have an earlier meeting in
20 October or we have -- I think that was probably
21 going to be it, the first and second week, it
22 looks like.

15:00

15:01

23 MR. BAILEY: Really, my
24 schedule is, up until that October 18th, is going
25 to be bad. After October 18th is good.

15:01

1 CHAIRPERSON JEFFERSON: Would 15:01
2 you-all prefer to wait until --
3 MR. BAILEY: I mean, late
4 October would be much better.
5 CHAIRPERSON JEFFERSON: Okay. 15:01
6 We'll take a look at that. Let's wait until we
7 get back to the office and you-all just let me
8 know. If we have too many people out that last
9 week in October, we may have to wait until
10 November, earlier November since we have 15:01
11 Thanksgiving towards the end of the month. So
12 we'll take a look at that.
13 That's basically all that I have in
14 announcements. I would like for you-all to use
15 this portion. I know we're running a little 15:01
16 short, but we started about 15 minutes late. So
17 if we could just have 15 minutes of your time for
18 public comments.
19 And if you have to leave, I certainly
20 understand. I really appreciate you-all coming, 15:02
21 if you can't stay 15 minutes. But I would just
22 like to thank you-all for coming and also just let
23 you know that we really appreciate your time and I
24 don't want to impose on you. So if you need to
25 leave, please feel free to do so. 15:02

1 MR. CAPECE: Matt Capece with 15:02
2 the United Brotherhood of Carpenters. This will
3 be really quick. Excuse me if I'm telling you-all
4 something that you already know. The U.S.
5 Department of Treasury has an agency called the 15:02
6 Financial Crime Enforcement Network. And there's
7 been some discussion here about how check-cashing
8 stores are used in money-laundering operations to
9 launder money as part of workers' compensation
10 premium fraud schemes. 15:02
11 Now, what the Financial Crime Enforce
12 Network does is they'll work with state
13 enforcement agencies on money-laundering cases and
14 to provide information to them. And somewhere
15 within the state of Tennessee -- it may be in the 15:03
16 Tennessee Bureau of Investigation, it may be
17 someone in your revenue department, it may be
18 someone in the Attorney General's office -- has
19 been FCEN trained to be one of the liaisons to the
20 U.S. Treasury Department to assist in money- 15:03
21 laundering cases.
22 For instance, one of the things they
23 can do for you is if you have a case with money
24 being laundered through a check-cashing store,
25 they can provide you with the currency transaction 15:03

1 reports on those cases. And a lot of the

15:03

2 successful prosecutions, especially in Florida,

3 have surrounded around falsification of those

4 currency transaction reports.

5 So if you didn't know, I wanted to

15:04

6 let you know that there's someone here in

7 Tennessee that's your state FCEN trained liaison

8 who can assist with those cases.

9 CHAIRPERSON JEFFERSON: Thank

10 you.

15:04

11 MR. BAILEY: I think George

12 Bell is.

13 MS. CAMPBELL: George Bell,

14 I'm not sure. He's not here today.

15 CHAIRPERSON JEFFERSON: Thank

15:04

16 you, Matt, for that information. We'll check to

17 see if we have somebody comparable in Tennessee.

18 I'm sure we do. We just need to look into it.

19 Do you-all have any more

20 announcements or do you have any more comments?

15:04

21 MR. WALTON: I have a comment.

22 CHAIRPERSON JEFFERSON: State

23 your name and organization you're with.

24 MR. WALTON: My name is Troy

25 Walton. I'm with Barlin Business Solutions. I

15:04

1 was invited by John and Norm. My company 15:04
2 represents a good number of the people that are on
3 that spreadsheet that John was -- that he made up.
4 I've noticed -- I just started working with this
5 company, but when it comes to a new business 15:05
6 starting, getting a right estimate of how much
7 payroll they're going to have in a year, it's hard
8 to start out that way. So there's a ghost policy
9 that a lot of these guys go to for workers' comp
10 that is a flat seven-fifty. 15:05
11 Once they know what their peril is
12 going to be, then at the back end or in the middle
13 they make an adjustment to the policy which
14 retroactively charges them from when they started
15 the policy. So it's not like a lot of these 15:05
16 workers in dry wall and roofers are trying to
17 skirt the system. They're just trying to start
18 the company, you know, so -- it's like John told
19 me about a case recently where a roofer had a
20 ghost policy but he also has \$140,000 that he's 15:06
21 made in the past three or four months.
22 Now, construction, unfortunately,
23 isn't year around. It usually only goes around
24 during the spring and the summer, not so much in
25 the fall and the winter. And to say that he made 15:06

1 that much money with just a ghost policy means 15:06
2 that, of course, he has employees that he's not
3 accounting for. If he was to account for those
4 employees, the workers' comp policy would be
5 something that he couldn't afford to pay. 15:06

6 So I think a common problem is
7 finding a number that is affordable for a new
8 company that is also good for the State to deal
9 with. So I just wanted to let you guys know the
10 problem. 15:07

11 CHAIRPERSON JEFFERSON: Okay.
12 Thank you.

13 MR. WALTON: Thank you.

14 CHAIRPERSON JEFFERSON: Do we
15 have anyone that would like to respond to that? 15:07

16 MR. HALE: I'll respond to it.

17 CHAIRPERSON JEFFERSON: Thank
18 you.

19 MR. HALE: Kevin Hale. Hale
20 Insurance insures a lot of contractors. The 15:07
21 problem you've got is a policy, whether it's a
22 \$750 policy that has relatively no payroll
23 attached to it or if -- I hope we could agree --

24 CHAIRPERSON JEFFERSON: Thank
25 you, Nathan. 15:07

1 (Mr. Burton leaves the room.) 15:07

2 MR. HALE: -- any business

3 that starts -- any individual or group of

4 individuals that start a business ought to have a

5 business at least with some estimated numbers or 15:07

6 estimated sales attached to that. How are you

7 going to run a business? Are you going to sub it

8 out 100 percent or are you going to use some

9 employees? There has to be some methodology in

10 estimating that. 15:07

11 And if it is zero, I'm going to

12 submit to you that through the committee reports

13 that have already been presented, especially in

14 Florida, this is the biggest component of that

15 scheme, is reporting almost no payroll, coming in, 15:08

16 doing vast amounts of work, dissolving the company

17 before there's ever an audit done. And so how can

18 insurance -- an insurance company is on the risk

19 for all of that, whether it's a \$10,000 payroll or

20 a million dollars in payroll. That's just the way 15:08

21 the policies are put together.

22 We can argue whether that's right or

23 wrong, but that's the way it's been for years.

24 And nobody in this room came up with that system.

25 That's just what we live by. 15:08

1 MR. WALTON: If you reported 15:08
2 zero payroll, the insurance company then comes
3 after you to prove that you only sub all the work
4 out. And then when you prove that, then they say
5 that they want you to open the general 15:08
6 contractor's policy instead of having the regular
7 policy that you have. But even that doesn't
8 change the seven-fifty workers' comp.

9 MR. HALE: I respectfully
10 disagree with what you're saying here. You kind 15:09
11 of -- to me, you've convoluted your argument by
12 saying that the insurance company makes you have a
13 general, what, construction or contractor's --

14 MR. WALTON: General
15 contractor's policy. If you tell them that you 15:09
16 don't have any employees, that you sub all your
17 work out only, then there's a different type of
18 policy that you get when you do that.

19 MR. HALE: No, sir. No, sir.
20 Policies are all equal. It doesn't matter if -- 15:09
21 the coverage in a policy is absolutely the same
22 coverage whether you've got clerical employees,
23 which probably are the lowest-rated payroll,
24 versus someone that's running a sawmill that has a
25 30-something-percent rate. Okay? Less than \$1 15:09

1 rate for clerical, \$35 rate for sawmill. Exactly
2 the same coverage. None. No difference. No
3 difference. Okay? It's just a difference of
4 exposure, which obviously we give you a difference
5 in premiums.

15:09

15:10

6 Now, if you're saying that insurance
7 companies say, "Oh, we're going to make you be a
8 general contractor," well, in the insurance lingo,
9 we talk about that being a carpentry class code,
10 5645. And yes, it is the prevalent code. That's
11 determined by the National Council on
12 Compensation, the NCCI, not anyone in this room.
13 Okay?

15:10

14 So insurance companies, all they're
15 doing is following the laws set forth in the state
16 of Tennessee to do that. But to me, you're
17 convoluting the issue of whether or not we've got
18 a governing class about the scope of work versus
19 payroll. It looks like you're mixing the two up
20 right there.

15:10

15:10

21 But there has to be some type of
22 basis for that payroll. And to say that everybody
23 should have just nothing out there, I think it
24 makes it an absolutely unequal playing field by
25 the folks that are trying to report their payroll

15:10

1 out there.

15:10

2 CHAIRPERSON JEFFERSON: Okay.

3 Is there anyone else from the insurance industry
4 that would like to add to that?

5 MR. THOMAS: I would like to
6 add something.

15:11

7 You mentioned the affordability and
8 stuff. And obviously that's a problem. But let's
9 say you're a painter and you've got the guys that
10 work for you, you know, and you're paying them \$8
11 to \$10 an hour. You also look at -- if you look
12 at your policy and you know it's a seven-fifty
13 minimum, it's going to have a category on there
14 and what the rate is. You look at that rate and
15 let's just say it's 10 percent. You're paying
16 your workers \$10 an hour. Well, now you know
17 you've got to account in your job bid for \$11 an
18 hour. And if you can't get that out of your
19 customer, well, then you find another customer,
20 because that's what your costs are right to begin
21 with.

15:11

15:11

15:11

22 CHAIRPERSON JEFFERSON: Okay.

23 That's a very good point. Do we have anyone that
24 would like to add to that?

25 MR. CAPECE: I'm Matt Capece

15:11

1 with the carpenter's union. I think I sent out to
2 a bunch of people in the community the articles
3 from North Carolina. And it was the abuse of the
4 ghost policies in North Carolina which led to the
5 governor of that state putting together an
6 anti-fraud task force because of the incredible
7 risk it put on injured workers, the exposure --
8 the horrendous exposure on the insurers, which
9 will go unpaid because usually the employers who
10 get these policies don't have the resources to pay
11 back the premium that they should have paid, that
12 they didn't, and the unlevel playing field for the
13 construction companies that are more forthcoming
14 about their true payroll.

15 So there is this very tremendous
16 abuse of minimal insurance policies or those
17 policies. And some of the cases that we've seen
18 in Florida, for instance, there was a company
19 named in the arrest warrant application for recent
20 cases that had one of these minimal policies but
21 asked for 451 certificates of insurance. So
22 there's -- these minimal insurance policies are
23 being incredibly abused, unfortunately, by the
24 industry.

25 CHAIRPERSON JEFFERSON: Is

1 there anyone else on the Task Force that would
2 like to add anything?

15:13

3 (No verbal response.)

4 CHAIRPERSON JEFFERSON: Okay.

5 And that's why we're here, to study all of these
6 issues. And what we'll need to do is have our
7 research and resource committee take a look at
8 other states to see how other states are actually
9 attacking this issue. We'll need to have all the
10 different committees take a look at this just to
11 see what we need to do to help the state of
12 Tennessee to move forward.

15:13

15:14

13 We do want to have employers compete
14 on a level playing field. That's the goal, to
15 have a level playing field and to somehow make
16 employers feel like competition is fair. Because
17 right now we know that competition is not fair.
18 We know that the bidding process is unfair. And
19 that's something that we're trying to come up
20 with, recommendations for the legislature, so that
21 we can hopefully get rid of those types of
22 practices, because those types of practices should
23 not be in existence in this day and time.

15:14

15:14

24 Hopefully, that's what this Task
25 Force will do, make more recommendations. And

15:14

1 we'll get more support from the legislature.

15:14

2 I would just like to thank everyone,
3 all the stakeholders, for your support, for your
4 time that you devote to these different
5 committees. We're really appreciative of that.

15:15

6 We would like to have you,
7 Mr. Walton, to participate in some of the
8 committee meetings and get to know some of the
9 other Task Force members and some of the
10 stakeholders. They've been involved in this issue
11 for a very long time. And so their input is very
12 appreciated. We respect them because they've been
13 in this process for so long. And so I think it's
14 a good idea for all of us to kind of get to know
15 each other, and that way we can proceed and we can
16 make things better in the state of Tennessee.

15:15

15:15

17 Do you-all have anything else to add
18 before we move on?

19 (No verbal response.)

20 CHAIRPERSON JEFFERSON: If
21 not, I motion to adjourn the meeting.

15:15

22 MS. LAZENBY: Second.

23 CHAIRPERSON JEFFERSON: Okay.
24 Thank you very much.

25 END OF THE PROCEEDINGS.

15:16

C E R T I F I C A T E

15:16

STATE OF TENNESSEE)

COUNTY OF WILLIAMSON)

I, Cassandra M. Beiling, a Notary Public

15:16

in the State of Tennessee, do hereby certify:

That the within is a true and accurate

transcript of the proceedings taken before the

Employee Misclassification Advisory Task Force,

15:16

Tennessee Department of Labor & Workforce

Development, on the 27th day of September, 2012.

I further certify that I am not related to

any of the parties to this action, by blood or

15:16

marriage, and that I am in no way interested in

the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my

hand this 8th day of October, 2012.

15:16

Cassandra M. Beiling, CCR, LCR# 371
Notary Public State at Large
My commission expires: 3/12/2016